

Section 42A Report

# Ecosystems and Indigenous Biodiversity

Prepared for the

Proposed Kaipara District Plan

Report prepared by: **Jerome Wyeth**

**1 May 2026**

**List of submitters and further submitters addressed in this report:**

<b>Submission Number</b>	<b>Submitter</b>
20	Christine Silvester
26	Chorus New Zealand Ltd, Connexa Ltd, Spark NZ Trading Ltd, Fortysouth Group LP and One NZ <b>(the Telco Companies)</b>
67	Adam Booth
119	Amanda (Mandy) Harris
125	Madara Vilde
136	Federated Farmers of New Zealand (Inc) – Northland Province <b>(Federated Farmers)</b>
140	Horticulture New Zealand <b>(Horticulture NZ)</b>
146	New Zealand Agricultural Aviation Association <b>(NZAAA)</b>
149	Royal Forest and Bird Protection Society of New Zealand <b>(Forest &amp; Bird)</b>
158	Manulife Forest Management NZ Ltd <b>(Manulife)</b>
206	D Leighton
216	Cabra Mangawhai Ltd & Pro Land Matters Ltd <b>(Cabra &amp; Pro Land)</b>
217	Cato Bolam Consultants Limited <b>(Cato Bolam)</b>
237	K P Dreadon Limited
257	Piroa Conservation Trust
263	Daytona Trust
265	Environmental Defence Society Incorporated <b>(EDS)</b>
267	Northland Fish and Game Council <b>(Fish and Game)</b>
272	J & C Hawley
278	Marunui Conservation Ltd
283	Northpower Limited and Northpower Fibre Limited <b>(Northpower)</b>
284	New Zealand Defence Force <b>(NZDF)</b>
289	Tappenden Holdings Limited
292	Transpower New Zealand Limited <b>(Transpower)</b>
300	Bream Tail Residents Association Incorporated <b>(Bream Tail RA)</b>
301	Channel Terminal Services Limited <b>(Channel)</b>
304	Director General of Conservation <b>(DOC)</b>
308	Fire and Emergency New Zealand <b>(FENZ)</b>

309	Clarus
319	J Warden
323	KiwiRail Holdings Limited ( <b>KiwiRail</b> )
332	Northland Regional Council ( <b>NRC</b> )
333	NZ Fairy Tern Trust
337	Aoroa Farms
FS23	W Birt
FS34	Black Swamp Ltd
FS35	Bream Tail RA
FS41	Channel
FS42	The Telco Companies
FS44	Daytona Trust
FS45	DOC
FS46	EDS
FS47	Federated Farmers
FS58	J & C Hawley
FS74	Marunui Conservation Ltd
FS76	Matariki Forests
FS77	Mercury NZ Limited
FS82	Northpower
FS83	NZAAA
FS84	NZ Defence Force
FS85	NZ Helicopter Association
FS89	P F Olsen
FS93	Forest & Bird
FS97	Tappenden Holdings Ltd
FS100	Transpower
FS103	P Rothwell
FS104	Fonterra
FS107	Atlas Quarries Limited

## TABLE OF CONTENTS

TABLE OF CONTENTS.....	3
Executive Summary .....	5
1. Introduction.....	6
2. Scope of Report .....	8
3. Topic 1: Giving effect to NPS-IB, RPS and SNA mapping.....	13
4. Topic 2: Indigenous biodiversity and infrastructure.....	19
5. Topic 3: General submissions and overview.....	25
6. Topic 4: ECO Chapter objectives.....	28
7. Topic 5: ECO chapter policies.....	34
8. Topic 6: ECO Chapter rules .....	46
9. Topic 7: Definitions.....	66

APPENDIX A: RECOMMENDATIONS FOR EACH SUBMISSION POINT ON ECOSYSTEMS AND  
INDIGENOUS BIODIVERSITY

APPENDIX B: RECOMMENDED AMENDMENTS TO THE ECO CHAPTER

APPENDIX C: RECOMMENDED AMENDMENTS TO THE DEFINITIONS CHAPTER

APPENDIX D: NPS-IB ASSESSMENT

APPENDIX E: COMPARISON OF INDIGENOUS VEGETATION CLEARANCE THRESHOLDS IN OTHER  
DISTRICT PLANS

APPENDIX F: SECTION 32AA EVALUATION

## List of abbreviations used in this report

Abbreviation	Term
CMA	Coastal Marine Area
KDC	Kaipara District Council
NES	National Environmental Standards
NES-ETA	Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
NES-CF	The Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017
NPS	National Policy Statement
NZCPS	New Zealand Coastal Policy Statement 2010 (Amended 2025)
NPS-FM	National Policy Statement for Freshwater Management 2020 (Amended 2025)
NPS-IB	National Policy Statement for Indigenous Biodiversity 2023 (Amended 2025)
NPS-I	National Policy Statement for Infrastructure 2025
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-EN	National Policy Statement for Electricity Networks 2025
NRC	Northland Regional Council
NRP	Northland Regional Plan
ODP	Operative Kaipara District Plan
PDP	Proposed District Plan
RMA	Resource Management Act 1991
RPS	Regional Policy Statement for Northland 2016
SNA	Significant Natural Area

---

## Executive Summary

1. The Proposed Kaipara District Plan (**PDP**) was publicly notified in April 2025. The Ecosystems and Indigenous Biodiversity Chapter (**ECO Chapter**) is located in Part 2 – District Wide Matters of the PDP and contains provisions that manage the effects of subdivision, use and development on indigenous biodiversity.
2. 34 primary submitters (with 195 individual submission points) and 24 further submitters (with 240 individual further submission points) made submissions on the ECO Chapter. Most infrastructure provider and primary sector submitters generally support the ECO Chapter provisions as notified, although they request a number of amendments to improve certainty and better enable certain activities. Conversely, submitters from the environmental sector, the Department of Conservation (**DOC**) and Northland Regional Council (**NRC**), and some individual submitters are concerned that the notified provisions in the ECO Chapter are too permissive and do not adequately give effect to higher order direction.
3. My key recommendations for the ECO Chapter are summarised as follows:
  - a. Amendments to ECO-P3 and ECO-R1 to respond to infrastructure sector submissions and better align with new national direction, including broadening the scope of ECO-P3 to refer to all infrastructure, including the word “repair” in ECO-P3.3, and adding infrastructure “and associated access tracks” as a permitted pathway for indigenous vegetation clearance in ECO-R1 with respect to infrastructure.
  - b. Amend ECO-O1 to state “Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected for current and future generations”.
  - c. Amend ECO-O4 to state “Landowners act as stewards and tangata whenua as kaitiaki in the protection, maintenance and restoration of indigenous biodiversity”.
  - d. Amend ECO—P3 to include a new clause “
  - e. Introduce a new policy (ECO-PX – Restoration priorities) that sets out priorities for restoration activities, with the wording included in full in **Appendix B**.
  - f. Introduce a new policy (ECO-PY – Managing pets and pest plants and animal species) focused on pest management.
  - g. Make a range of amendments to ECO-R1, as set out in **Appendix B**, to respond to submissions, including reducing allowed indigenous vegetation clearance for fencing, better recognising clearance authorised under the Biosecurity Act 1993, explicitly providing for garages as part of clearance for a single residential unit on an existing

title dated prior to 28 April 2025 and reducing the clearance timeframe for land that has already been cleared from 10 year old vegetation to 5 year old vegetation.

- h. Reduce the indigenous vegetation clearance thresholds in ECO-R2.1(a) and (b).
- i. Delete the requirement to include an ecological assessment in ECO-R2.2 and insert a new matter of discretion requiring consideration of the criteria in Appendix 5 of the RPS (Areas of significant indigenous vegetation and significant habitats of indigenous fauna) into ECO-R2.3.
- j. Apply the “gavel” notation identifying rules with immediate legal effect under section 86B(3) of the RMA to ECO-R1 and ECO-R2.
- k. Amend the definition of “vegetation clearance” to include the word “damage”.

## 1. Introduction

### 1.1 Qualifications and Experience

1. My name is Jerome Wyeth. I am a Technical Director – Planning at SLR Consulting based in Whangarei. I am engaged by Kaipara District Council (**KDC**) to assist with the Proposed Kaipara District Plan (**PDP**). I have been involved in the development of the PDP for KDC since 2021 and have assisted with the drafting of a range of chapters and associated section 32 evaluations, both for the Exposure Draft Kaipara District Plan and the PDP. This includes leading the preparation and refinement of the proposed ECO Chapter.
2. I hold the degrees of a Bachelor of Science (Geography) and a Masters of Science (Geography) with First Class Honours. I am a full member of the New Zealand Planning Institute.
3. I have over 20 years’ experience in resource management and planning with roles in central government, local government and the private sector. My primary area of work is policy planning for local and central government, and I am the New Zealand Policy Portfolio Lead at SLR Consulting. I have worked on a number of district and regional plans at various stages of the RMA Schedule 1 process and have prepared planning evidence for local authority and Environment Court hearings on a range of resource management issues, including a range of natural environment and infrastructure topics. This includes recently being the reporting officer for the Ecosystems and Indigenous Biodiversity Chapter in the Far North Proposed District Plan.
4. I have been closely involved in the development and implementation of numerous national instruments under the RMA (national policy statements and national environmental standards), including the NPS-IB and the recent amendments to a range of national instruments as part of the Phase 2 resource management reforms. I have been involved from the policy scoping stage

through to policy decisions and drafting, the preparation of section 32 evaluation reports and implementation guidance. I am also currently working with the Ministry for the Environment on the development of national instruments for the new planning system, with the new legislation intended to be enacted in mid-2026.

## 1.2 Preparation of the report

5. I am authorised by KDC to prepare this report under section 42A of the RMA to assist the PDP Hearings Panel. The purpose of this report is to both assist the Hearings Panel in hearing and deciding on submissions made on to the PDP, and to assist submitters in understanding how their submission is being considered as part of the PDP process. This report includes my recommendations on matters raised in submissions, and recommended amendments to the ECO Chapter that I consider to be appropriate having considered the statutory requirements.
6. I am the author of this report. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
7. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations that I have made in this report are not binding on the Hearings Panel. It should not therefore be assumed that the Hearings Panel will reach the same conclusions or decisions having considered all the submissions and evidence from submitters. The decision ultimately lies with the Hearings Panel.

## 1.3 Code of Conduct

8. While this is not a hearing held by the Environment Court, I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## 1.4 Conflict of Interest

9. I confirm that I have no real or perceived conflict of interest in relation to the ECO Chapter.

## 2. Scope of Report

### 2.1 Matters addressed by this report

10. The scope of this report is to consider the submissions and further submissions made on the provisions in the ECO Chapter of the PDP and to make recommendations on those submissions.
11. This section 42A report also addresses submissions on the definitions which are specific to, or predominantly used in, the ECO Chapter, being “indigenous biodiversity”, “indigenous vegetation” and “vegetation clearance”, as well as requests for a wide range of new definitions that are linked to the ECO Chapter.

### 2.2 Overview of the topic / chapter

12. The notified ECO Chapter in the PDP contains objectives, policies and rules to manage indigenous biodiversity throughout the Kaipara District. As set out in the Overview section of the ECO Chapter, indigenous habitats in the Kaipara District have been extensively removed or modified (largely through agriculture) and only about 16% of the Kaipara District remains in indigenous cover. The objectives and policies in the ECO Chapter focus on protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, as required by section 6(c) of the RMA, and controlling the use of land (indigenous vegetation clearance) to maintain indigenous biodiversity, as a function of KDC under section 30(1)(b)(iii) of the RMA.
13. The PDP does not include any mapped areas of “significant indigenous vegetation and significant habitats of indigenous fauna” (as referred to in section 6(c) of the RMA and RPS) or otherwise known as Significant Natural Areas (**SNAs**) in the context of the National Policy Statement for Indigenous Biodiversity 2023 (**NPS-IB**). This was a deliberate decision by KDC given ongoing uncertainty about national policy requirements for mapping and protection of SNAs. This extends back to the development of the NPS-IB, which took many years to develop, and was subsequently amended through the Resource Management (Freshwater and Other Matters) Amendment Act 2024 (**the RMA Amendment Act**) which paused the SNA mapping requirements and delayed the implementation of all SNA related provisions in the NPS-IB. The section 32 report for the ECO Chapter sets out in more detail the reasons for not including any of mapping of SNAs or giving effect to the NPS-IB<sup>1</sup>.
14. As a result, any mapping of SNA in accordance with the NPS-IB needs to occur through a future plan change process (or alternative planning process). Accordingly, the proposed approach in the ECO Chapter is to include policy direction to protect areas of significant indigenous

---

<sup>1</sup> Refer section 1.3: [Ecosystems and Indigenous Biodiversity s32 FINAL.pdf](#)

vegetation and significant habitats of indigenous fauna and maintain indigenous biodiversity consistent with the RPS. This policy direction is supported by two rules for indigenous vegetation clearance that set permitted thresholds, permit clearance for certain purposes, and require resource consent when the thresholds are exceeded.

15. The ECO Chapter is the primary chapter of the PDP that manages indigenous vegetation clearance, and it applies to land use and subdivision activities in all zones, as well as activities managed through the Part 2 (District-wide matters) in the PDP Chapters (e.g. infrastructure). The advice notes in the ECO Chapter clarify the relationship with other chapters in the PDP and national regulations by stating:
  - a. There are additional, more stringent, rules for indigenous vegetation clearance in the Coastal Environment, Natural Character, and Natural Features and Landscapes chapters in the PDP.
  - b. Earthworks that permanently alter the profile of the land are managed by the Earthworks Chapter – land disturbance associated with vegetation clearance, by definition, does not alter the profile of the land.
  - c. Indigenous vegetation clearance associated with commercial forestry is regulated under Regulations 93 and 94 of the National Environmental Standards for Commercial Forestry 2017 (**NES-CF**). However, the ECO Chapter rules still apply to indigenous vegetation clearance carried out before (but not during) afforestation of commercial forestry.

## 2.3 Statutory Context

### 2.3.1 Resource management reform

16. On the 9 December 2025, the Government introduced two new pieces of legislation to Parliament to replace the RMA as follows:
  - a. The Planning Bill – focused on planning to enable development and infrastructure.
  - b. The Natural Environment Bill – focused on managing the natural environment.
17. The Government has announced its intention to proceed with the Select Committee process at pace through the first half of 2026, with both bills intended to be passed into law before the 2026 general election. Although the signalled intent is for a quick transition to the new resource management system by the end of 2029, the RMA continues to be in effect until this new replacement legislation is passed, with planning documents prepared under the RMA remaining

in effect until new national instruments are prepared and new plans are prepared and notified (including Regional Spatial Plans, Natural Environment Plans and Land Use Plans).

18. The Planning Bill and Natural Environment Bill do not have any legal weight. Further, based on the estimated dates in the transitional provisions of the Bills as they currently stand, the Acts and the new planning documents to be established under the Acts, will not have any impact on either the recommendations in the section 42A reports for the PDP or the decisions on the PDP. Submissions on the PDP will be heard under the current RMA provisions. Therefore, this report does not consider the content of the Planning Bill and Natural Environment Bill any further. This approach is consistent with a recent decision from the High Court in *Box Property Investments Limited v The Expert Consenting Panel* [2025] NZH 1773 which held that decisions must be made based on the law as it currently stands, not on future legislative changes [paragraph 35].
19. Further, it is important to note that the Operative Kaipara District Plan (**ODP**) is thirteen years old and drafted in a matter that is not aligned with the National Planning Standards, national direction, the RPS and other district plans in the Northland region (being Whangarei and Far North district plans). Substantive work is required to better align it with other planning provisions in the region, as well as with the style, content and format of plans that are likely to be required under the new planning system. The RMA Schedule 1 hearing process for the PDP is therefore an important part of improving the effectiveness and efficiency of the district plan, which will also better integrate into the new planning system.

### 2.3.2 RMA National Direction

20. The Ecosystems and Indigenous Biodiversity section 32 evaluation report provided an overview of the relevant statutory considerations with respect to Part 2 of the RMA, national policy direction, and the parts of the National Planning Standards relevant to the ECO topic. As such, I do not repeat that detail here.
21. On 15 January 2026, three new and seven amended national direction instruments under the RMA came into effect. In considering the relevant higher order documents that impact the ECO Chapter below, I have considered the new and amended national direction instruments where relevant. I note that:
  - a. The amendments to the NPS-IB were primarily relating to the pathways for mineral extraction and quarrying activities in relation to SNAs and therefore have limited relevance to the ECO Chapter (given the PDP does not include mapped SNAs for the reasons outlined above).
  - b. The package includes three national policy statements relating to infrastructure – the new National Policy Statement for Infrastructure 2025 (**NPS-I**), the amended

National Policy Statement for Renewable Electricity Generation (**NPS-REG**), and the amended National Policy Statement for Electricity Networks (**NPS-EN**). I addressed the amended NPS-REG in some detail in the Renewable Electricity Generation hearing and the NPS-I and NPS-EN will be considered in more detail through the Infrastructure hearing. However, these three NPS's are also of relevant to the ECO Chapter as they include direction that the enabling policy direction for infrastructure is to be read alongside provisions in national, regional and district planning documents relating to values and environments provided for in section 6 of the RMA<sup>2</sup>.

### 2.3.3 Northland Regional Policy Statement

22. The RPS requires that areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected and the extent and diversity of indigenous ecosystems and habitats in the region are maintained (Objective 3.4). This requires avoiding (in the coastal environment) and avoiding, remedying or mitigating (outside the coastal environment) the effects of subdivision, use and development on areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5 of the RPS (Policy 4.4.1).

### 2.3.4 Iwi management plans

23. The four iwi management plans relevant to the Kaipara District were considered as part of developing the PDP, as set out in Section 2.5 of the Section 32 Overview Report<sup>3</sup>. The key themes raised that are relevant to indigenous biodiversity are:
- a. The need to provide for the enhancement, protection, preservation and restoration of indigenous habitats such as forests, flora and fauna for future generations.
  - b. The need to enable iwi to actively manage indigenous biodiversity within their rohe.
  - c. Recognition of the relationship of iwi with natural resources in relevant regional and territorial plans, policies and strategies and acknowledgement of Te Roroa mātauranga/traditional knowledge with respect to protecting and managing indigenous biodiversity.

---

<sup>2</sup> Refer to Policy 9(2) in the NPS-I, for example.

<sup>3</sup>

[www.kaipara.govt.nz/uploads/District%20Plan%20Review/PDP%20Chapter%2032%20reports/Overview%20Report%20s32%20FINAL.pdf](http://www.kaipara.govt.nz/uploads/District%20Plan%20Review/PDP%20Chapter%2032%20reports/Overview%20Report%20s32%20FINAL.pdf)

- d. Protect customary resources, particularly if they are scarce or endangered, and provide access to these by kaitiaki for customary use.
  - e. Vegetation clearance should be avoided in areas identified as high risk for soil erosion, in areas containing significant indigenous biodiversity and near culturally significant sites.
  - f. Require that all resource consent applications concerning or potentially affecting flora and fauna be lodged with a cultural impact assessment and biological audits approved by the relevant tangata whenua.
  - g. Prioritising the use of local indigenous plant species for replanting in partnership with iwi.
  - h. Promote achieving a pest free rohe, including eradication of exotic flora and fauna that damages, destroys or competes with indigenous species or their ecosystems.
24. The Exposure Draft District Plan did not include a draft ECO Chapter due to uncertainty regarding the timing and content of the NPS-IB.

## 2.4 Procedural matters

25. DOC requested a pre-hearing meeting which was held on 31 March 2026. This was an informal “in good faith” discussion to understand and discuss key issues in submissions and hearing process and no notes were recorded. Other than this there have been no other submitter, prehearing or Clause 8AA meetings on the ECO Chapter. There has been no further consultation undertaken since notification.

## 2.5 Organisation of the report

26. The key issues identified in this report are set out below (arranged by theme and provision):
- a. **Topic 1:** Giving effect to NPS-IB, RPS and SNA mapping;
  - b. **Topic 2:** Indigenous biodiversity and infrastructure;
  - c. **Topic 3:** General submissions and Overview section;
  - d. **Topic 4:** ECO Chapter objectives;
  - e. **Topic 5:** ECO Chapter policies;
  - f. **Topic 6:** ECO Chapter rules; and
  - g. **Topic 7:** Definitions.

### 2.5.1 Submissions and further submissions

27. 34 primary submitters (with 195 individual submission points) and 24 further submitters (with 240 individual further submission points) were received on the ECO chapter, The summary of decisions requested by submissions and further submissions pertaining to this section 42A report, and my recommendation for each are attached as Appendix A. The primary submissions and further submissions can be found on the KDC website.
28. While all submissions have been read and considered in the summary of decisions requested by submissions (**Appendix A**), responses have not necessarily been written for each individual submission point. To assist the Hearings Panel in achieving clause 10(2) of the First Schedule of the RMA, I have provided reasons for my recommendations to accept or reject submissions and further submissions generally by themes. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the provisions.

### 2.5.2 Recommended changes

29. Where I have recommended amending provisions in the ECO Chapter as a result of considering the submissions and further submissions, these are contained as tracked changes in Appendix B. My recommended amendments and additions to the Definitions chapter are contained as tracked changes in **Appendix C**. Text that is recommended to be amended is shown as **red text** for ease of locating, with deletions being ~~struck through~~, and additional text underlined.
30. No PDP maps require amending in response to submissions on the ECO Chapter.

### 2.5.3 Section 32AA evaluation report

31. A section 32AA evaluation is only required for changes recommended since notification; if there is no change to the notified version, a section 32AA evaluation is not required. The level of detail in the section 32AA evaluation reports needs to be at a level of detail that corresponds to the scale and significance of the changes recommended. To streamline this report, where a change has been recommended, the corresponding section 32AA evaluation is attached in **Appendix F**.

## **3. Topic 1: Giving effect to NPS-IB, RPS and SNA mapping**

### 3.1 Introduction

32. This section addresses submissions requesting amendments to the ECO Chapter to better give effect to the NPS-IB and RPS, including concerns in submissions that the PDP does not include any mapping of SNAs. Common concerns raised in these submissions (specific submission points provided below) include:

- a. Not mapping areas of significant indigenous vegetation or significant habitats of indigenous fauna, or SNAs, in the PDP is inconsistent with both the NPS-IB and the RPS.
- b. KDC has statutory obligations under section 6(c) of the RMA to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, regardless of the requirement for SNA mapping in the NPS-IB being paused.

## 3.2 Analysis

33. The submissions received in relation to giving effect to the NPS-IB, the RPS, and mapping of SNAs are strongly interrelated as the mapping (and subsequent protection) of SNAs is core component of giving effect to the NPS-IB. I have separated out submissions relating to the NPS-IB and the RPS and SNA mapping below, acknowledging there is overlap between these two key issues raised by submitters.

### 3.2.1 Giving effect to the NPS-IB and RPS

34. NRC [332.10] considers that the provisions of the ECO Chapter need to be more stringent as they allow cumulative losses of indigenous biodiversity on private land, which does not align with the direction of the NPS-IB or the RPS. More specifically, NRC requests better alignment of the ECO Chapter with Objective 3.4 in the RPS which seeks to achieve the maintenance of indigenous ecosystems and biodiversity and, where practicable, enhancement of indigenous biodiversity values.
35. NRC [332.22] requests the inclusion of an advice note in the ECO Chapter objectives and policies to direct decision-makers to have regard to the NPS-IB when considering an application for a resource consent.
36. Cabra & Pro Land Matters [216.57] request general amendments to the provisions in the ECO Chapter provisions to give effect to the NPS-IB but do not request any specific wording amendments to achieve this.
37. Forest & Bird [149.127, 149.128, 149.39, 149.145] requests a range of new objectives and policies in the ECO Chapter to give effect to specific provisions in NPS-IB. More specifically, Forest & Bird request the following new objectives and policies in the ECO Chapter to give effect to specific provisions in the NPS-IB:
  - a. Indigenous biodiversity that is not significant (NPS-IB, Policy 8)
  - b. Identifying areas that support indigenous biodiversity (NPS-IB, Policies 6, 15 and 17)

- c. Resilience of indigenous biodiversity to the effects of climate change (NPS-IB, Policy 4)
  - d. Increasing indigenous vegetation cover (NPS-IB, Policy 14)
  - e. Recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity (NPS-IB, Objective and Policy 2)
  - f. Specified highly mobile fauna (NPS-IB, Policy 15)
  - g. Application of the effects management hierarchy to manage effects on indigenous biodiversity (NPS-IB, clauses 3.10, 3.11, 3.15 and 3.16).
  - h. Application of the biodiversity offsetting and compensation principles (NPS-IB, Appendix 3 and 4).
38. The ECO Chapter was notified on 28 April 2025. The NPS-IB came into force on 4 August 2023 but certain provisions in the NPS-IB were suspended or delayed when the RMA Amendment Act came into force on 25 October 2024. The RMA Amendment Act is a key legislative change for the ECO Chapter as it suspends the requirements under the NPS-IB relating to SNAs, including the requirement to identify and map SNAs. The RMA Amendment Act also amended Part 4 of the NPS-IB so that local authorities are not required to notify any changes to plans to give effect to the SNA related provisions in the NPS-IB (subpart 2 of Part 3) until 31 December 2030. This change in national policy direction and pause of SNA mapping requirements are key reasons why the PDP was notified without any mapping of SNAs (however described). In my view, this is appropriate given that there is still a high degree of uncertainty in any future SNA mapping requirements and the substantial costs and contention typically associated with SNA mapping.
39. Nonetheless, I acknowledge that there is still an obligation to give effect to the non-SNA related provisions in the NPS-IB through the PDP “as soon as reasonably practicable” (Clause 4.1 of the NPS-IB). From my experience in other plan review processes, including in Far North and the Wellington Region, it is complex to give effect to some parts of the NPS-IB but not those relating to SNAs due to the interrelated nature of the NPS-IB provisions. These complexities relate to the detailed direction to map SNAs in Clause 3.8 and Appendix 1, the direction to avoid certain adverse effects on SNAs in Clause 3.10, the exemptions for specific activities in Clause 3.11, and the effects management hierarchy and principles for biodiversity offsetting and biodiversity compensation in Appendix 3 and Appendix 4. This means there are risks and likely implementation issues if the PDP gives effect to parts of the NPS-IB but not others where these provisions are interrelated. There is also uncertainty around the future implementation of the NPS-IB and the extent to which it will be integrated into national instruments in the future

planning system under the proposed Planning Bill and Natural Environment Bill. In my view this uncertainty limits the extent to which the NPS-IB should be given effect to through the PDP process.

- a. Therefore, to comply with the general obligation to give effect to the non-SNA related provisions in the NPS-IB where practicable and appropriate, I have developed a set of guiding principles, drawing on a similar framework that I used for the Far North Proposed District Plan<sup>4</sup> and the Wellington RPS. This NPS-IB assessment is attached as **Appendix D**. In summary, I recommend the ECO Chapter in the PDP **does not** give effect to provisions in the NPS-IB when any of the following apply: It would involve significant amendments to the notified ECO Chapter or giving effect to any matters in the NPS-IB that are not already fully, or partially, addressed by the provisions ECO Chapter as notified (e.g. resilience to climate change). This is because I consider that a future planning process (under the RMA or new planning system) will provide a fairer opportunity for interested persons to comment and participate in the process.
  - b. –The provisions relate to SNAs as these areas need to be mapped in district plans before the effects management provisions in the NPS-IB apply and those requirements have been paused as outlined above.
  - c. **N** It would require further engagement and partnership with tangata whenua and landowners or require further technical/ecological work (e.g. identifying highly mobile fauna areas) through the PDP. These need to be given effect through a future planning process (under the RMA or new planning system).
40. On this basis, I recommend that most of the NPS-IB provisions are given effect to through a future plan change (or alternative planning process under new system). However, I have also identified several amendments that can and, in my view, should be made to the provisions in the ECO Chapter to better give effect to the NPS-IB. This assessment of the NPS-IB has informed my analysis and recommendations on specific provisions below.
41. I disagree with NRC that an advice note is required in the ECO Chapter alerting decision-makers to the need to have regard to the NPS-IB. In my view, this type of cross referencing is unnecessary as decision-makers (and applicants) should already be aware of their obligations to consider national direction, including the requirement in section 104(1)(a)(iii) of the RMA to have regard to the provisions of relevant national policy statements when considering resource consent applications. Referencing the need to have regard to one NPS in one chapter of the

---

<sup>4</sup> Refer for example: [Microsoft Word - Indigenous Biodiversity S42A Appendix 3](#)

---

PDP Chapter but not others would also likely create unnecessary complexity and confusion in my view.

### 3.2.2 SNA mapping

42. Federated Farmers [136.47] support the notified PDP approach to not include mapped areas of significant indigenous vegetation and significant habitats of indigenous fauna, or SNAs, given the likely changes to the NPS-IB signalled by central government.
43. Forest & Bird [149.37] and DOC [304.63] both acknowledge that recent amendments to the RMA paused the requirement in the NPS-IB to identify and map SNA. However, Forest & Bird and DOC note that this “pause” does not remove the statutory obligations under the RMA and the RPS in relation to the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
44. Specifically, Forest & Bird highlights Objective 3.4 in the RPS, which seeks to safeguard Northland’s ecological integrity by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, which is supported by Appendix 5 of the RPS that sets criteria for determining the ecological significance of these areas. Forest & Bird consider that, without SNA mapping, there is less clarity for landowners and decision-makers as to which areas need protection, which increases the risk of unintentional loss of significant indigenous biodiversity. To address this concern, Forest & Bird requests that SNA are identified using the criteria in Appendix 5 of the RPS and that the ECO Chapter is amended to introduce an objective and a method relating to mapping that specify timeframes for completion, using the Napier City Council ECO Chapter as an example of an appropriate framework.
45. DOC considers that the work undertaken pre-notification by Wildlands Consultants to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna (included as attachment 2 of the DOC submission) should be used as a basis for a policy and rule framework to protect significant indigenous biodiversity.
46. EDS [265.3] considers that the NPS-IB and the NPS-FM need to be given effect to now as the ECO Chapter is currently contrary to both national direction instruments, as well as the National Planning Standards, which requires that objectives, policies, rules and standards to ensure SNA can be identified, protected, managed and restored. As well as SNA mapping, EDS requests an overall strengthening of the ECO Chapter provisions, similar to the direction in the Auckland Unitary Plan to give effect to the NPS-IB and NPS-FM. More specifically, EDS requests that:
  - a. Subdivision is referred to alongside use and development.
  - b. Regulatory thresholds are strengthened.

- c. Activity statuses are “ratcheted up”.
  - d. Provision for earthworks and indigenous vegetation clearance are not set on an annual basis.
  - e. Matters of control and discretion should provide for the protection, management and restoration of indigenous biodiversity and outstanding landscapes and features.
47. Other submitters also support these types of approaches to identifying and mapping SNA in the PDP, including NZ Fairy Tern Trust [333.6], Daniel Leighton [206.3], Alex Flavell [30.2] and Madara Vilde [125.13].
48. The issue of if, and how, SNAs or areas with significant indigenous biodiversity are identified and mapped is closely related to how the NPS-IB and RPS are given effect to (discussed above) as identification, mapping and protection of SNAs is a core requirement of the NPS-IB. It is also directly related to obligations under section 6(c) of the RMA to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna as directed by Objective 3.4 and Policy 4.4.1 in the RPS<sup>5</sup> (noting that there are no specific requirements in the RPS to map these areas).
49. In my opinion, the mapping of SNAs (however described) following a robust process (including technical assessments, engagement and physical inspections) is the most effective method to protect these areas. Mapping of SNAs has the benefit of providing certainty to all parties on the location and extent of these areas and the relevant provisions that apply. Mapping SNAs also enables rules to be more targeted based on the ecological significance of the area affected rather than applying generic indigenous vegetation clearance rules throughout the Kaipara District (as discussed further below under Topic 6). Robust SNA mapping is also generally recognised as best practice at a national level, which is reflected in the principles, criteria and process for district-wide SNA mapping in the NPS-IB.
50. In this respect, I am in broad agreement with the general sentiment in the submissions above that the PDP would ideally include more detailed identification and mapping of ecologically significant values and areas in the Kaipara District, to reduce the risk of unintentional and incremental loss of indigenous biodiversity.

---

<sup>5</sup> Policy 4.4.1 of the RPS sets out specific direction to protect significant ecological areas within and outside the coastal environment, including reference to ecological assessment criteria in Appendix 5 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna in terrestrial, freshwater and marine environments). However, there are no specific requirements in the RPS to map these areas.

51. However, as discussed above, there is considerable uncertainty on future requirements to map SNAs, whether that be under the NPS-IB or through the new planning system. There are also significant procedural issues introducing mapping of SNAs into the PDP without being subject to testing and engagement with tangata whenua and landowners. Therefore, I recommend any mapping of SNAs (or equivalent) occurs through a future planning process, which will allow for the relevant national policy requirements to be addressed in an effective, integrated, holistic and collaborative manner. It will also be more efficient with less risk of rework, opposition and associated costs to the community due to potential future changes to the NPS-IB (or alternative national policy requirements).
52. For these reasons, I also do not recommend an alternative framework based on the pre-notification Wildlands work, combined with the Appendix 5 criteria in the RPS, as requested by DOC and Forest & Bird given the high level of uncertainty about future legislation and national direction relating to indigenous biodiversity. I also note that, while the RPS includes specific direction to map a range of environments (e.g. the coastal environment, outstanding natural features and landscapes, historic heritage, natural hazards etc) there is no requirement in the RPS to map SNAs.

### Recommendations

53. I do not recommend any specific amendments to the ECO Chapter based on general submissions to better give effect to the NPS-IB, RPS or introduce SNA mapping. However, I outline where I consider it appropriate to strengthen specific provisions and achieve better alignment with the NPS-IB and RPS in the topics below where I address submissions on specific provisions in the ECO Chapter.

## **4. Topic 2: Indigenous biodiversity and infrastructure**

### 4.1 Introduction

54. The ECO Chapter applies to indigenous vegetation clearance across all zones in the PDP, including indigenous vegetation clearance associated with infrastructure activities. As submissions from the infrastructure sector generally raise similar issues on the ECO Chapter, I have addressed them together under this topic. This is also to recognise that national direction, including the new and amended NPS-I, NPS-EN and NPS-REG, and the RPS generally seek to enable infrastructure activities provided adverse effects are appropriately managed.
55. While infrastructure sector submitters were broadly supportive of the ECO Chapter provisions, they request a number of amendments with the general intent of achieving an appropriate balance between protecting significant indigenous biodiversity and enabling the efficient

development, maintenance, operation and upgrading of infrastructure. Transpower also seeks specific exemptions from provisions in the ECO Chapter for the National Grid.

## 4.2 Analysis

56. Channel [301.29] support retaining the ECO Chapter as notified, particularly ECO-P2 and ECO-R1. Channel considers that these provisions reflect a pragmatic approach to allowing indigenous vegetation clearance for the operation, repair or maintenance of existing infrastructure. Other infrastructure submitters that support certain provisions in the ECO Chapter are:

- a. The Telco Companies [26.59], Transpower [292.61] and KiwiRail [323.51] support retaining ECO-P3 as notified.
- b. The Telco Companies [26.60], Clarus [309.58], KiwiRail [323.52] support retaining ECO.R1 as notified.
- c. The Telco Companies [26.61], Transpower [292.63] and Clarus [309.59] support retaining ECO-R2 as notified.

57. Some infrastructure providers request amendments to better reflect the work necessary to operate, maintain and upgrade infrastructure networks. More specifically, Northpower [283.146] requests an amendment to ECO-O1 to make the objective focus on balance between ecological outcomes and enabling infrastructure as follows:

*“Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected, while enabling the safe and efficient use, development, maintenance, operation and upgrading of infrastructure.”*

58. Northpower [283.147] also request amendments to ECO-P3 to:

- a. Refer to all infrastructure in ECO-P3.2, not just regionally significant infrastructure.
- b. Refer to ‘operation, use, repair, upgrading and maintenance’ in ECO-P3.3.

59. Finally, Northpower [283.148] requests an amendment to ECO-R1.1(l) to provide an exemption for ‘upgrading’, not just operation, repair and maintenance of the listed lawfully established activities, which include infrastructure.

60. Transpower [292.59] supports the ECO Chapter in principle but considers that changes are required to give effect to the NPS-ET (now NPS-EN) and to recognise that Transpower has a legal requirement to manage effects of vegetation on the National Grid to minimise tree interruption to the supply of electricity. More specifically, Transpower requests amendments to the following provisions:

- a. Amend ECO-P1 and ECO-P2 to clarify that these policies do not apply to the National Grid or amend the policies to appropriately recognise the National Grid. Transpower notes that there is currently misalignment with the Infrastructure Chapter policies, specifically INF-P10. Transpower also consider that it is not appropriate to apply the offsetting and compensation requirement in ECO-P2 to the National Grid as this is inconsistent with both the NPS-EN and NPS-IB [292.60 and 292.78].
- b. Amend ECO-R1.1(l) to refer to 'minor upgrading', not just operation, repair and maintenance of the listed lawfully established activities. Transpower notes that "minor upgrading" is a defined term in the PDP and the change is therefore limited in scope by this definition [292.62].
- c. Amend ECO-R1.1(l)(ii) to refer to 'infrastructure and associated access tracks'. Although Transpower acknowledge that access tracks may be provided for by other clauses in this rule, this specific amendment is requested for the avoidance of doubt [292.62].

#### ECO-01

61. I disagree with Northpower that ECO-01 should be amended to specifically refer to infrastructure. The purpose of ECO-01 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 are indirectly addressed in ECO-02, 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.

#### Exemptions to ECO-P1, ECO-P2 for the National Grid

62. Firstly, I note that the NPS-ET has been replaced by the NPS-EN and the NES-ETA is being amended to be the NES-ENA. These new regulations are likely to come into force during 2026<sup>6</sup>. Any submission points and provisions relating to the National Grid will therefore need to consider

---

<sup>6</sup> Note the regulations in the NES-ENA relating to electric vehicle charging infrastructure have already come into force but these are of less relevant to the ECO Chapter

and give effect to that new and amended national direction (where practicable and within scope), including the provisions in the Infrastructure Chapter.

63. As notified, INF-P10 in the Infrastructure Chapter is one of two policies that enable development and upgrading of the National Grid. INF-P10.8 explicitly states that “*In the event of any conflict with any other policies within the plan, INF-P10 take precedence.*” My understanding (after discussions with the Infrastructure Chapter reporting officer) is that the wording of INF-P10 has been developed in conjunction with Transpower to act as a “one stop shop” policy that prevails over other potentially conflicting policies in district wide chapters in the PDP, such as the ECO Chapter, where such conflicts cannot be reconciled. By including clear direction in INF-P10 that it takes precedence over other conflicting policies, it avoids the need for multiple exemptions for the National Grid in the policies of other district wide chapters in the PDP. In my view, this is an appropriate and efficient drafting approach as it allows the Infrastructure Chapter policies on the National Grid to address potential conflicts with other policies. As such, I do not consider that explicit exemptions from ECO-P1 and ECO-P2 for the National Grid are appropriate or necessary.

### ECO-P3

64. 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.
65. 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<sup>7</sup>. To summarise, I agree that ECO-P3(3) should cover repairs and acknowledge that the word “repair” is used throughout the PDP, most notably in relation to infrastructure but also in relation to other matters such historic heritage. Referring to “repair” alongside “maintenance” in ECO-P3(3) is

---

<sup>7</sup> Refer Section 5.2 of the REG Right of Reply report - [Officers Right of Reply - Renewable Electricity Generation 9 April.pdf](#)

more consistent with these other chapters and provide clarity for plan users that these activities are anticipated by ECO-P3.

66. 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 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.

#### ECO-R1

67. 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.
68. 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-R1.1(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.
69. The request from Transpower to include “minor upgrading” in ECO-R1.1.l could potentially mitigate this risk as the PDP currently defines “minor upgrading”<sup>8</sup> as utilising existing structures and networks and/or structures and networks of a similar scale and character, which inherently limits the potential extent of indigenous vegetation clearance. However, I anticipate that this definition will need to be amended to align with the new definition of “maintenance and minor upgrading” in the NPS-I and “routine activities” in the NPS-ENA. I also consider that a threshold of being a “similar scale and character” could be difficult to apply as a permitted activity pathway for indigenous vegetation clearance associated with the upgrading of existing infrastructure. I

---

<sup>8</sup> Minor upgrading is defined as “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.”

also note that the NES-ETA (which is being amended by the NES-ENA likely to come into force this year) includes rules for indigenous vegetation clearance associated with electricity transmission activities (including replacing and relocating support structures) on existing National Grid assets which prevail over the PDP. I therefore do not anticipate that ECO-R1.1 will cause any undue consenting issues for Transpower. I therefore do not recommend that “minor upgrade” is added to in ECO-R1.1(l).

70. However, I agree with Transpower that “associated access tracks” should be included in ECO-R1.1(l) as infrastructure providers need access to infrastructure to ensure it is maintained and operating properly, and it is consistent with other listed exemptions in ECO-R1.1 for existing walking, cycling and farming tracks.

### 4.3 Recommendations

71. I recommend that:

- a. ECO-P3 is amended as follows:

“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:

1. Does not unreasonably restrict existing primary production activities, particularly on highly productive land;
2. Recognises the operational need or functional need of **regionally significant** infrastructure to traverse or locate within areas of significant indigenous vegetation and significant habitat of indigenous fauna where there are no practicable alternative locations;
3. Allows for operation, use, **repair** and maintenance of existing structures, including infrastructure; and
4. Enables land to be used and developed to support the social, economic and cultural well-being of people and communities.”

- b. ECO-R1.1(l)(ii) is amended to include the words “**and associated access tracks**”.

---

## 5. Topic 3: General submissions and overview

### 5.1 Introduction

74. This section addresses general submissions on the ECO Chapter not addressed in Topics 1 and 2 above, as well as submissions on the Overview section of the ECO Chapter.

### 5.2 Analysis

#### 5.2.1 General submissions

75. Christine Silvester [20.3] supports the PDP containing provisions that protect indigenous vegetation, particularly with respect to protecting kiwi living in the “Bream Tail Farm” and “The Sanctuary” areas.

76. Federated Farmers [136.57, 136.88] considers that all rules relating to indigenous vegetation clearance currently located in the Coastal Environment, Natural Character, and Natural Features and Landscapes chapters should be located in the ECO Chapter, including NATC-P2, NATC-R4, NATC-S3, NFL-R3, NFL-R7 and NFL-S5<sup>9</sup>. Federated Farmers acknowledges that the National Planning Standards allow for provisions that protect natural character and the coastal environment to be located in those chapters. However, Federated Farmers also notes the mandatory direction in Section 7, Clause 19 in the National Planning Standards that matters relating to the maintenance of biological diversity must be located in the ECO Chapter. Conversely, Federated Farmers consider that any provisions covering land disturbance associated with indigenous vegetation clearance in the ECO Chapter should be relocated to the Earthworks Chapter.

77. DOC [304.2] requests that the National Pest Management Plan rules for kauri dieback are included in the PDP to manage subdivision, roadworks and earthworks activities around kauri trees.

78. NZAAA [146.52] do not request any specific relief, however they consider that the proposed provisions in the ECO Chapter are overly restrictive when considering pest control activities that support restoration and enhancement, taking into consideration direction in the RPS.

79. Amanda (Mandy) Harris [119.4] requests amendments to the ECO Chapter to include stormwater management provisions as part of a broader suite of submission points on multiple PDP chapters. Ms Harris considers that stormwater provisions should be embedded across a range of chapters in the PDP to reflect the cross-cutting nature of water infrastructure and its impact on land use,

---

<sup>9</sup> See also submission points on these provisions 136.58 - 136.63 and 136.193.

biodiversity, and hazard management. Ms Harris considers that KDC needs to be proactive on this issue to embeds robust, future-focused infrastructure policies to safeguard environmental health, reduce flood risk and support sustainable community development, rather than being reactive to change in government policy.

80. Daniel Leighton has two general submission points on the ECO Chapter that are not linked to any specific provisions. The relief sought in these submission points are:

- a. Add measurable biodiversity outcomes (e.g. establish net biodiversity gain or no-net-loss policies) [206.3]
- b. Strengthen restoration and pest management provisions, including enforceable conditions for replanting habitat enhancement [206.14]

81. With respect to these general submissions, my response and recommendations are as follows:

- a. I acknowledge Ms Silvester's support for indigenous vegetation protection provisions in the ECO chapter and confirm that I recommend that the majority of provisions be retained as notified, subject to my recommended changes in Appendix B.
- b. I disagree that Natural Character and Natural Features and Landscape indigenous vegetation clearance rules should be located in the ECO chapter, as requested by Federated Farmers. Advice note 1 above the rules table explains to plan users that there are additional indigenous vegetation clearance rules in the Coastal Environment, Natural Character, and Natural Features and Landscapes chapters that are more stringent and apply in addition to the ECO Chapter rules. The reason that these rules are located in different chapters are because they manage different effects (i.e. natural character of waterbodies and the coastal environment, natural landscapes and features) whereas the ECO Chapter rules manage effects on indigenous biodiversity within and outside these overlay areas. As land disturbance associated with indigenous vegetation clearance is an inherent part of the clearance activity, I disagree with these provisions being relocated to the Earthworks Chapter.
- c. I appreciate that Kauri dieback is an important issue that requires active management and control to manage spread as noted by DOC. However, in my view, there is not sufficient reasoning and evidence in the DOC to recommend new provisions in the ECO Chapter. In my view, simply requesting adoption of the National Pest Management Plan rules is insufficient and DOC needs to demonstrate that any additional provisions are appropriate, effective and efficient in the Kaipara District in accordance with section 32AA of the RMA. This also needs to include further details on how the National Pest Management Plan should be incorporated into provisions that

are fit-for-purpose for the ECO Chapter as they have not been drafted for a district plan. I can consider this request further should DOC choose to provide evidence on this matter, including requested provisions, prior to the hearing.

- d. It is not clear from the NZAAA submission what relief would satisfy their request, however my recommendations in Topics 4, 5 and 6 below with respect to pest management and restoration priorities may potentially address some of the concerns.
- e. The request from Ms Harris to include stormwater management provisions in the ECO Chapter is part of a wider request to improve the way the PDP manages stormwater. As well as the ECO Chapter, Ms Harris is requesting new stormwater provisions in the Infrastructure, Subdivision, Natural Features and Landscapes, Natural Character, Natural Hazards and zone chapters. However, the key focus of the submission (as I understand) is to better manage the construction of stormwater infrastructure and to promote low-impact and nature-based design. Although I acknowledge that the installation of stormwater infrastructure can have adverse effects on indigenous biodiversity, I consider that the ECO Chapter provisions I recommend in this report are sufficient to manage those potential impacts. The question of whether additional stormwater provisions are needed to prioritise the use of green infrastructure and other nature-based solutions is best addressed in the Infrastructure, Subdivision and/or zone chapters in my view.
- f. I do not recommend any specific amendments to the ECO Chapter to add measurable biodiversity outcomes in response to the submissions from Daniel Leighton. While I agree measurable biodiversity outcomes are important to demonstrate when offsetting and compensation is proposed to ensure net gains in indigenous biodiversity will be achieved, this is already addressed through the relevant principles in the NPS-IB and I am not recommending that the NPS-IB effects management hierarchy be introduced into the ECO Chapter at this point of time (see analysis and recommendations under Topic 1 above). However, I am recommending amendments to the policies to strengthen the provisions relating to restoration and pest management, as discussed under Topic 5 below, which may address Mr Leighton's submission points to some degree.

### 5.2.2 Overview

82. There is one submission on the Overview of the ECO Chapter from Federated Farmers [136.47], which states that it supports the Overview and the recognition given to the role of landowners in protecting and restoring indigenous biodiversity on private land. All other submissions that mention the Overview text are addressed in Topics 1 and 2 above and do not request any specific

changes. Rather the Overview is mentioned only in the context of the information it provides, e.g. that the Overview includes information that SNA mapping will need to be the subject of a future plan change (e.g. DOC [304.63]).

83. As such, I do not recommend any amendments to the Overview text of the ECO Chapter.

### 5.3 Recommendations

84. I do not recommend any amendments to the ECO Chapter in response to these general submissions and submissions on the Overview section.

## 6. Topic 4: ECO Chapter objectives

### 6.1 Introduction

85. There are four objectives in the ECO Chapter as follows:

- a. **ECO-01** - areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected.
- b. **ECO-02** - adverse effects on indigenous biodiversity are managed to maintain its extent and diversity in way that provides for the social, economic and cultural well-being of people and communities.
- c. **ECO-03** - the restoration of indigenous biodiversity is promoted and enabled.
- d. **ECO-04** - landowners act as stewards in protecting, maintaining and restoring indigenous biodiversity.

86. All submitters support the objectives in the ECO Chapter either in full or part, with around half of the submission points requesting that the objectives be retained as notified. The remaining submission points request amendments to strengthen the objectives, remove content not directly focused on indigenous biodiversity, to introduce more specific direction on:

- a. Maintaining overall indigenous biodiversity
- b. The “enhancement” of indigenous biodiversity
- c. Providing for the role of tangata whenua as kaitiaki alongside other landowners as stewards.

## 6.2 Analysis

### 6.2.1 ECO-O1 – Protection of significant indigenous vegetation and significant habitats of indigenous fauna

87. Seven submissions were received on ECO-O1, in addition to the submission from Northpower discussed in Topic 2 above. Four submitters request that ECO-O1 be retained as notified, being Federated Farmers [136.48], Tappenden Holdings Limited [289.11], Bream Tail [300.13] and DOC [304.64].
88. Forest & Bird [149.38] requests an additional sentence to explain what pressures indigenous biodiversity should be protected from to improve clarity and better align with the RMA and NPS-IB. The specific amendments requested by Forest & Bird to ECO-O1 are “Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected from clearance, modification, degradation, fragmentation, and inappropriate use, subdivision, and development.”
89. NRC [332.12] request additional text at the end of ECO-O1 as follows “Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected for current and future generations”. NRC consider this wording is more in line with the outcomes sought in the RPS, to maintain and, where practicable, enhance indigenous biodiversity values.
90. Te Uri o Hau support ECO-O1 but request additional text as follows: “Areas of significant indigenous vegetation and significant habitats of indigenous fauna, including significant water bodies and taonga species identified by mana whenua are protected.”
91. In my view, it is not necessary or appropriate to amend ECO-O1 to list a specific range of activities that areas of significant indigenous vegetation and significant habitats of indigenous fauna need to be protected from, as requested by Forest & Bird. The purpose of objectives is to describe the outcome sought whereas, in my view, it is the role of policies and rules to provide more specific direction on the activities that need to be managed to achieve that outcome (in this case, protection).
92. I do not recommend that ECO-O1 refers to significant water bodies or taonga species identified by mana whenua as requested by Te Uri o Hau. ECO-O1 has been drafted to follow the direction in section 6(c) of the RMA, and, in my view, the focus of the objective should remain on that direction. I also consider that significant water bodies are more appropriately managed by NRC through their regional plan as opposed to being directly managed under the PDP. I also consider that, if an ECO Chapter objective were to refer to taonga species identified by mana whenua, there would need to be a specific engagement process with mana whenua to identify those species, followed by a further plan change to ensure their protection is achieved through policies and rules, which is consistent with the general intent of the NPS-IB.

93. However, I agree with NRC that the addition of the words “for current and future generations” could be helpful to ensure decision-makers take a longer-term view and consider potential future impacts on these areas, not just immediate impacts. The additional wording requested is also broadly aligned with the part of the NPS-IB objective that requires consideration of the wellbeing of people and communities “now and in the future” and is consistent with my recommended wording for objective IB-O1 in the Far North Proposed District Plan which has some benefits in terms of regional consistency. I therefore recommend that this submission is accepted and ECO-O1 is amended accordingly.

#### 6.2.2 ECO-O2 – Maintenance of indigenous biodiversity

94. Three submitters request that ECO-O2 be retained as notified, being Federated Farmers [136.149], Tappenden Holdings Limited [289.60] and Bream Tail [300.77].
95. Cabra & Pro Land [216.59] request that ECO-O2 is amended to provide a reference point for what “maintaining overall biodiversity” looks like and how this is to be measured, e.g. no reduction in the area of SNA, no degradation of water quality in rivers, streams and coastal waters. Cabra & Pro Land have not provided specific amendments to ECO-O2 to achieve this broad relief.
96. Piroa Conservation Trust [257.24], J & C Hawley [272.28] and Marunui Conservation Ltd [278.27] all request the same amendments to ECO-O2 to focus the objective on maintaining indigenous biodiversity for its own intrinsic values without any consideration of the wellbeing of people and communities, consistent with section 7(d) of the RMA. The requested wording from these submitters is “Adverse effects on indigenous biodiversity are managed to maintain it’s the extent and diversity of indigenous ecosystems and habitats in a way that provides for the social, economic and cultural well-being of people and communities.”
97. NRC [332.13] also request deletion of the reference to providing for the social, economic and cultural well-being of people and communities in the second part of ECO-O2. NRC requests this amendment to better align with the RPS direction on indigenous biodiversity values and to avoid duplication with SD-VK-O1 and SD-VK-O2.
98. DOC [304.65] requests ECO-O2 is replacement with an alternative objective, being “Biodiversity in the Kaipara District is maintained, and where practicable enhanced so that there is at least no overall loss in indigenous biodiversity.” DOC consider that the notified ECO-O2 does not give effect to the NPS-IB and will not maintain indigenous biodiversity at a district level.
99. In response to these submissions, I note that the overarching objective of the NPS-IB is “to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date...” and the last part of the NPS-IB objective refers to **(emphasis added) “...while providing for the social, economic, and**

**cultural wellbeing of people and communities now and in the future**". As such, in my view, the notified wording of ECO-O2 is aligned with the wording of NPS-IB objective. In my view, it also provides important overall direction that maintaining indigenous biodiversity needs to be done in a way that also provided for the social, economic and cultural wellbeing of people and communities (e.g. allowing for essential infrastructure where adverse effects on indigenous biodiversity are appropriately managed).

100. In response to more specific points raised and amendments requested to ECO-O2:

- a. I disagree with Cabra & Pro Land that ECO-O2 should contain specific direction on what "maintaining overall biodiversity" looks like and how it should be measured. It is the role of policies and subsequent rules to provide this type of direction, not an objective. I am aware that Clause 1.7 of the NPS-IB provides specific direction on what maintenance of indigenous biodiversity means but this level of direction would be more appropriately located within the policies in my view. While there is likely scope to make such a recommendation, I consider that this is a substantial change to the notified policies in the ECO Chapter and so I do not recommend this change.
- b. I disagree with NRC that including the phrase "*providing for the social, economic and cultural well-being of people and communities*" in ECO-O2 duplicates SD-VK-O1 and SD-VK-O2. It is the role of the Strategic Direction Chapter in the PDP to provide high level direction on what outcomes are sought for the Kaipara District, with other PDP chapters providing specificity on how to achieve those outcomes. I also note that SD-VK-O1 focuses on how activities that support social, economic and cultural wellbeing should be "*promoted through zones*". As such, I do not consider that ECO-O2 duplicates SD-VK-O1 as it is a strategic direction objective focusing on the content of zones in Part 3 (Area-specific matters) of the PDP rather than Part 2 (District-wide matters) of the PDP like the ECO chapter.
- c. I disagree with DOC that ECO-O2 should be expanded to refer to "*where practicable enhanced*" as this objective is focused on maintenance as per the function of KDC under section 31(1)(b)(iii) of the RMA. ECO-O3 is focused on restoration which is the more appropriate objective to consider expanding to refer to enhancement.
- d. I note that the wording suggested by DOC includes the words "*so that there is at least no overall loss in indigenous biodiversity*" and that this wording directly reflects the wording of the NPS-IB objective. I address the "no net loss" direction in the context of the new policy requested by NRC in Topic 5 below and, in short, I do not recommend this direction in incorporated into the ECO Chapter as this point of time and the focus remains on the key obligations in section 6(c) and 31(1)(b)(iii) of the RMA.

---

### 6.2.3 ECO-O3 – Restoring indigenous biodiversity

101. Four submitters request that ECO-O3 be retained as notified, being Federated Farmers [136.50], NZAA [146.24], Tappenden Holdings Limited [289.61] and Bream Tail [300.78].
102. Piroa Conservation Trust [257.25], J & C Hawley [272.29] and Marunui Conservation Ltd [278.28] all request the same amendments to ECO-O3 to focus more on enhancement and reducing threats to threatened and at-risk species, which they consider aligns with both the RPS. The requested amendments to ECO-O3 from these submitters is “The restoration and enhancement of indigenous biodiversity is promoted and enabled to reduce the threat status of threatened and at-risk species.”
103. NRC [332.14] request amendments to ECO-O3 to better align with the direction of the RPS to maintain and, where practicable, enhance indigenous biodiversity values, as well as to acknowledge the importance of preventing and managing pests. NRC requests that the title of ECO-O3 is amended to read “Restoring indigenous biodiversity and managing pests” and that the objective itself reads “The restoration of indigenous biodiversity and management of pest species is promoted and enabled”.
104. The wording of ECO-O3 is deliberately broad. In my view, it is the role of policies to direct how the restoration of indigenous biodiversity will be promoted and enabled rather than adding more specificity into the objective. Threatened and at-risk species are specifically mentioned in ECO-P1 and ECO-P2 in the context of the policy direction to avoid, remedy or mitigate adverse effects on indigenous biodiversity within and outside the coastal environment. In my view, this is sufficient and adding another reference to threatened and at-risk species into ECO-O3, as requested by Piroa Conservation Trust and others, is unnecessary and could inadvertently narrow the scope of the objective. Similarly, I consider that managing pests is sufficiently covered by the detailed policy direction in ECO-P4, which gives effect to ECO-O3 as pest management is inherently part of protecting, maintaining and restoring indigenous biodiversity. Accordingly, I do not recommend that ECO-O3 is amended as requested by NRC, but I do recommend more specific policy direction on managing pest species below under Topic 5.
105. In terms of whether ECO-O3 should be amended to refer to enhancement, I note that enhancement is intentionally included in the NPS-IB definition of “restoration” as follows (**emphasis added**):

*restoration means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, **and may include enhancement activities***

106. The PDP definition of restoration (in relation to indigenous biodiversity) is aligned with this definition from the NPS-IB. Accordingly, in my view, it is not necessary to refer to “enhancement” of indigenous biodiversity within ECO-O3 as this is already captured by the PDP definition of “restoration”.

#### 6.2.4 ECO-O4 – Stewardship of indigenous biodiversity

107. Three submitters request that ECO-O4 be retained as notified, being Tappenden Holdings Limited [289.62], Federated Farmers [136.51] and Bream Tail [300.79].
108. NRC [332.15] requests that ECO-O4 is amended to reflect that tangata whenua are also kaitiaki of indigenous biodiversity as follows: “Landowners act as stewards and tangata whenua as kaitiaki in the protection, maintenance and restoration of indigenous biodiversity”.
109. Te Uri o Hau [367.28] requests that ECO-O4 is amended to recognise that tangata whenua are kaitiaki of indigenous biodiversity, as well as a request to require protection of taonga species in freshwater bodies. Te Uri o Hau’s suggested amendments to ECO-O4 are as follows: “Landowners, and council, act as stewards in partnership with mana whenua who act as kaitiaki in the protection maintenance and restoration of indigenous biodiversity and protection of taonga species in freshwater bodies”.
110. I agree with NRC and Te Uri o Hau that an amendment to ECO-O4 is appropriate, particularly in the context of the NPS-IB objective, which requires recognition of “*the mana of tangata whenua as kaitiaki of indigenous biodiversity*”. An amendment is also consistent with Objective 3.12 of the RPS that requires district plans to recognise and provide for the tangata whenua kaitiaki role in relation to decision-making over natural and physical resources and section 7(a) of the RMA to particular regard to kaitiakitanga. My preference is for the wording requested by NRC as I consider the protection of taonga species in freshwater bodies to be primarily a regional council function. Accordingly, I recommend that ECO-O4 is amended as requested by NRC.

#### 6.2.5 New objectives

111. DOC [304.66] requests a new objective in the ECO Chapter to give effect to the RMA, the NPS-IB and Objective 3.12 of the RPS as follows:
- “Recognise and provide for the relationship of tangata whenua and their culture and traditions with indigenous vegetation and fauna.”
112. Similarly, Te Uri o Hau [367.75] requests a new objective in the ECO Chapter as follows:
- “Protect and preserve the cultural values of mana whenua associated with the natural environment, taonga species and indigenous biodiversity.”

113. I consider that my recommended amendment to ECO-O4 above in response to the submission from NRC has addressed these points without the need for a new objective. My preference is for the scope and direction of objectives to remain focused on protecting and maintaining indigenous biodiversity, which will help to protect cultural values associated with that indigenous biodiversity without specifically referring to them. As such, I recommend that the submission points from DOC and Te Uri o Hau are accepted in part.

### 6.3 Recommendations

114. I recommend the ECO Chapter objectives are amended as follows:

- a. ECO-O1 is amended to state “Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected for current and future generations”.
- b. ECO-O4 is amended to state “Landowners act as stewards and tangata whenua as kaitiaki in the protection, maintenance and restoration of indigenous biodiversity”.

## 7. Topic 5: ECO chapter policies

### 7.1 Introduction

115. There are five policies in the ECO chapter as follows:

- a. **ECO-P1** – directs how to manage adverse effects on indigenous biodiversity within the coastal environment, following a tiered approach (as directed by the NZCPS and RPS) to avoid adverse effects of subdivision, land use and development on more at-risk and significant species, habitats and areas (sub clause 1) and avoid significant adverse effects and avoid, remedy or mitigate other adverse effects on other indigenous biodiversity areas within the coastal environment (sub clause 2).
- b. **ECO-P2** - directs how to manage indigenous biodiversity outside the coastal environment, taking a similar tiered approach to ECO-P1, but with the added tests of adverse effects being no more than minor on more at-risk and significant species, habitats and areas (clause 1) and adding the ability to offset and compensate in other indigenous biodiversity areas (clause 2) consistent with the direction in the RPS.
- c. **ECO-P3** – directs that the protection of significant indigenous vegetation and significant habitat of indigenous fauna and maintenance of indigenous biodiversity to be done in a way that achieving a range of other outcomes relating to the wellbeing of people and communities, including:
  - i. Not unreasonably restricting existing primary production;

- ii. Recognising the operational need and functional need of regionally significant infrastructure;
  - iii. Allowing for operation, use and maintenance of existing structures, including infrastructure; and
  - iv. Enabling land to be used to support the social, cultural and economic wellbeing of people and communities.
- d. **ECO-P4** - directs that the restoration and enhancement of indigenous biodiversity is promoted and enabled, including recognising landowners as stewards, enabling the removal of pest species, and enabling biosecurity works.
  - e. **ECO-P5** - encourages the protection, maintenance and restoration of indigenous biodiversity through non-regulatory methods and provides examples of such methods.
116. The submissions on the ECO Chapter policies broadly fall into two groups – one that is supportive of broadly retaining the policies as notified (including Federated Farmers and Fish & Game) and the other requesting amendments to, or deletion of, policies to better align with national direction (NZCPS and NPS-IB) and the RPS (including DOC and NRC). There are also some requests for new policies to address perceived gaps in the policy framework in the ECO Chapter.

## 7.2 Analysis

### 7.2.1 ECO-P1 – Indigenous biodiversity in the coastal environment

117. Ten submissions were received on ECO-P1 (in addition to the Transpower submission discussed in Topic 2 above). Four submissions request that ECO-P1 be retained as notified, being Federated Farmers [136.52], Tappenden Holdings Ltd [289.12], Bream Tail [300.14] and Daytona Trust [263.12], on the basis that the policy appropriately gives effect to both the NZCPS and the RPS.
118. Forest & Bird [149.40] and DOC [304.67] support ECO-P1 in part, but request that the full text of NZCPS Policy 11 be included in ECO-P1 for completeness. Forest & Bird and DOC argue that without the full text in Policy 11 of the NZCPS, ECO-P1 does not reflect the full suite of relevant matters, nor demonstrate the extent of effects management required.
119. Cabra & Pro Land Ltd [216.58] request amendments to ECO-P1 to clarify what “major impacts” are in coastal areas – no further information is provided in the submission to explain why this is necessary.
120. NRC [332.16] request that ECO-P1 is amended to better reflect the direction of the RPS on overall biodiversity outcomes, but no alternate wording is suggested by NRC for ECO-P1.

- 
121. Te Uri o Hau [367.10, 367.29] request that ECO-P1 is amended as follows:
- a. Add additional sub clauses directing that adverse effects are avoided on “sites of significance to mana whenua, and on mana whenua cultural values”.
  - b. Insert a new clause 3 that states: “Enable mana whenua to uphold their role as kaitiaki to protect, enhance and maintain indigenous biodiversity, ecosystem health, and taonga species and habitats.”
122. I do not agree that the full text of Policy 11 of the NZCPS needs to be repeated in full in the ECO Chapter to give effect to the NZCPS. As well established through case law in *King Salmon*, the hierarchy of planning instruments under the RMA means there is no need to refer to the instrument beyond that directly above or Part 2 of the RMA except where there is incomplete coverage, uncertainty or questions around validity. The RPS was made operative after the NZCPS and *King Salmon* and, in my view, clearly and comprehensively gives effect to Policy 11 of the NZCPS through Policy 4.4.1(1) and (2), which applies the same “avoid policies” and hierarchy of effects management within the coastal environment. While there are some differences in wording of Policy 4.4.1(1) and (2) in the RPS compared to NZCPS, the RPS gives effect to the substance of the policy direction, including the direction to “avoid adverse effects” and “avoid significant adverse effects”. Regardless, these policies in the RPS are operative and not in dispute as to the extent to which these give effect to the NZCPS.
123. My intention therefore when drafting ECO-P1 (along with ECO-P2 and ECO-P3 as the key effects management policies in the ECO Chapter) was to primarily focus on giving effect to Policy 4.4.1 in the RPS. In my view, the wording of ECO-P1 as notified (particularly in the absence of SNA mapping and the pause of these requirements in the NPS-IB) provides clear policy direction on how to manage adverse effects in the coastal environment that appropriately gives the RPS without needing to restate wording in the NZCPS.
124. Regarding Cabra & Pro Land’s request to clarify what “major impacts” are in coastal areas, the term “major impacts” is not used in ECO-P1, and it is unclear how the submitter would like the policy clarified on this matter. I therefore do not request any amendments to this submission point from Cabra & Pro Land or the submissions above.
125. Te Uri o Hau raises a number of concerns with the natural environment provisions in the PDP, including that these do not mention protecting and preserving mana whenua values in these areas. While I agree with Te Uri o Hau that the PDP should include direction to protect sites of significance to mana whenua, in my view that policy direction is best included in the Sites and Areas of Significance to Māori Chapter in the PDP, which is being considered in Hearing 11. I also consider that the strong direction in ECO-P1 to avoid adverse effects and avoid significant adverse effects on indigenous biodiversity will help to protect the cultural values associated with

this biodiversity without needing to explicitly refer to these values per se. With respect to the new clause 3 focusing on enabling mana whenua to uphold their role as kaitiaki of indigenous biodiversity, I consider that my recommended amendments to ECO-O1 and ECO-P4 below appropriately address this concern.

### 7.2.2 ECO-P2 – Indigenous biodiversity outside the coastal environment

126. Twelve submissions were received on ECO-P2 (in addition to the Transpower submission discussed in Topic 2 above). Seven submissions request that ECO-P2 be retained as notified, being Federated Farmers [136.53], Piroa Conservation Trust [257.26], J&C Hawley [272.30], Marunui Conservation Ltd [278.29], Tappenden Holdings Ltd [289.63], Daytona Trust [263.63] and Bream Tail [300.80]. Reasons for support by these submitters, include that ECO-P2 appropriately gives effect to both the NZCPS and the RPS.

127. Forest & Bird [149.41], DOC [304.68] and NRC [332.62] all request amendments to ECO-P2 with the intent of better giving effect to section 6(c) of the RMA, clauses 3.10 to 3.17 of the NPS-IB (with DOC specifically mentioning Policy 3.16) and the RPS. NRC have not requested any specific wording for ECO-P2, but both Forest & Bird and DOC have both requested a range of similar, but different amendments to address their concerns and better give effect to this higher order direction. The key arguments from Forest & Bird and DOC for amending ECO-P2 are to:

- a. Ensure that ECO-P2 requires avoidance in the first instance before using the effects management hierarchy, noting that DOC have also requested a definition of “effects management hierarchy” and an associated appendix to support implementation of ECO-P2.
- b. KDC is still required to give effect to sections 6(c) and 7(d) of the RMA and the remainder of the provisions in the NPS-IB that do not relate to SNAs (Forest & Bird).

128. Te Uri o Hau [367.11, 367.30] request that ECO-P2 is amended as follows:

- a. Add additional sub clauses directing that, outside the coastal environment, “Avoid significant adverse effects on sites of significance to mana whenua, taonga species, and mana whenua cultural values”.
- b. Insert a new clause 3 that states: “Enable mana whenua to uphold their role as kaitiaki to protect, enhance and maintain indigenous biodiversity, ecosystem health, and taonga species and habitats.”

129. After reviewing the extensive range of amendments suggested by Forest & Bird, DOC and NRC, I am of the view that most requested amendments largely relate to SNA provisions in the NPS-IB, which I recommend that the PDP does not give effect to at this point of time for the reasons

set out in Topic 1 above. In my view, the wording of ECO-P2 already appropriately gives effect to sections 6(c) and 7(d) of the RMA and Policy 4.4.1 of the RPS. In my view, it would add unnecessary complexity introducing the effects management hierarchy from the NPS-IB into the PDP at this point of time as that primarily relates to the SNA provisions in the NPS-IB and with limited benefit as ECO-P2 already addresses the key effects on indigenous biodiversity outside the coastal environment that need to be avoided, remedied and mitigated consistent with Policy 4.4.1(3) in the RPS.

130. With respect to the submissions from Te Uri o Hau, I agree that the PDP should include direction to protect sites of significance to mana whenua but, as I discussed in relation to ECO-P1, I consider that the most appropriate place for that direction is in the Sites and Areas of Significance to Māori Chapter. I also consider that the strong direction in ECO-P2 to avoid, remedy, mitigate, offset or compensate adverse effects on indigenous biodiversity will help to protect the cultural values associated with this biodiversity without needing to explicitly refer to these values per se. As with ECO-P1, I consider that my recommended amendments to ECO-O1 and ECO-P4 may partially address the concerns regarding insufficient recognition of mana whenua as kaitiaki of indigenous biodiversity without the need for further amendments to this policy.

### 7.2.3 ECO-P3 – Protection and maintenance of indigenous biodiversity

131. Ten submissions were received on ECO-P3, in addition to those already addressed in Topic 2 above. Of those nine submissions, five submissions support ECO-P3 and request it be retained as notified, being Federated Farmers [136.54], NZAA [146.25], Tappenden Holdings Ltd [289.64], Daytona Trust [263.64] and Bream Tail [300.81].
132. Forest & Bird [149.42] oppose ECO-P3 as currently drafted on the basis that this is overly focused on enabling subdivision, land use and development (particularly for primary production, infrastructure and broader wellbeing) rather than providing clear direction to protect and maintain indigenous biodiversity, as required by the RMA and other higher order policy documents. To address this concern, Forest & Bird request that ECO-P3 is split into two policies - one focused on setting out the biodiversity protection and maintenance outcomes in line with the NPS-IB and RPS and another dealing with specific circumstances where limited adverse effects may be acceptable, as set out in the NPS-IB, such as established activities or maintenance of improved pasture for farming.
133. DOC [304.69] opposes ECO-P3 and note that clauses 1-4 of the policy appear to be unrelated to the title and provide no policy level support for ECO-R1. DOC requests alternative drafting where clauses 1-4 are deleted and replaced with a reference to providing for the activities in ECO-R1 so that the focus remains on protecting significant indigenous vegetation and significant

habitat of indigenous fauna and maintaining indigenous biodiversity rather than enabling a range of activities.

134. NRC [332.17, 332.63] requests that ECO-P3 is either deleted completely or redrafted to better reflect the policy direction on indigenous biodiversity in the RPS. NRC considers that ECO-P3 does not provide any direction on the management of indigenous biodiversity and elements within ECO-P3 are already addressed through other PDP provisions.
135. Te Uri o Hau [367.12, 367.31] request two amendments ECO-P3 as follows:
- a. Insert a new clause that states: “Enables mana whenua to develop on whenua Māori and Treaty settlement land, where adverse effects on biodiversity are managed and minimised.”
  - b. Insert a new clause that states: “Enable mana whenua to uphold their role as kaitiaki to protect, enhance and maintain indigenous biodiversity, ecosystem health, and taonga species and habitats.”
136. I understand why DOC considers that there is a mismatch between the title and policy substance of ECO-P3. However, in my view, ECO-P3 provides an important “balancing” function to implement ECO-O2 and to ensure that the protection and maintenance of indigenous biodiversity also consider how to appropriately allow for existing and essential activities that support the social, economic and cultural well-being of people and communities. ECO-P3 also provides policy support for the implementation of ECO-R1 and ECO-R2 without simply referring to those rules (as suggested by DOC).
137. In my view, the policy direction in ECO-P3 is aligned with provisions in the NPS-IB (e.g. Objective 2.1(1)(b)(iv), Policy 9, Policy 10, Clause 3.5(1)(b)) and the RPS (e.g. Method 4.4.3(3)). It is also broadly consistent with the recommended Policy IB-P5 in the Far North Proposed District Plan which has benefits in terms of regional consistency. I do not recommend that ECO-P3 is amended to refer to more specific provisions in the NPS-IB as suggested by Forest & Bird (e.g. maintenance of improved pasture for farming). This is because the NPS-IB provisions referred to relate to SNAs and the implementation of the SNA provisions in the NPS-IB are best given effect to through a future planning process (as discussed under Topic 1).
138. However, I agree with Te Uri o Hau that there is an opportunity to better reflect the NPS-IB direction to be more enabling of development on Māori land, particularly Clause 3.18(2) of the NPS-IB that requires district plans to “enable new occupation, use, and development of specified Māori land to support the social, cultural, and economic wellbeing of tangata whenua”. Clause 3.18(2) of the NPS-IB is intended to recognise that there are often limited options for tangata whenua to use, occupy and develop their lands, which may justify some impacts on indigenous

biodiversity. As with ECO-P1, I consider that my recommended amendments to ECO-O1 and ECO-P4 may partially address the concerns regarding insufficient recognition of mana whenua as kaitiaki of indigenous biodiversity without the need for further amendments to this policy.

4. I therefore recommend that ECO-P3 be amended to include a new clause relating to development of whenua Māori and Treaty Settlement land as requested by Te Uri o Hau (in addition to the amendments I recommended in Topic 2 above). I am open to considering further refinements to the policy in response to submitter evidence.

#### 7.2.4 ECO-P4 – Restoring and enhancing indigenous biodiversity

5. Fourteen submissions were received on ECO-P4. Six submissions support ECO-P4 and request that it be retained as notified, being Federated Farmers [136.55], NZAA, [146.26], Fish & Game [267.5], Tappenden Holdings Ltd [289.65], Daytona Trust [263.65] and Bream Tail [300.82].
6. Piroa Conservation Trust [257.27], J&C Hawley [272.31], and Marunui Conservation Ltd [278.30] all request that a new clause is inserted into ECO-P4, stating “Controlling the introduction or keeping of species with recognised pest potential”. These submitters argue that this is a method that the RPS specifically directs be included in district plans to implement Policy 4.4.1 in the RPS.
139. In response to these submissions, I note that Method 4.4.3(2) in the RPS sets out how district plans should implement Policy 4.1.1 of the RPS (subject to Method 4.4.3(3)). Method 4.4.3(2) mentions two methods to include in district plans to achieve this implementation – controls on land disturbance and clearance of indigenous vegetation (which the ECO Chapter already does) and controls on the introduction or keeping of species with recognised pest potential.
140. In this respect, I agree that the ECO Chapter should include some more specific provisions to manage pests to give effect to this method in the RPS. However, it is important to recognise the limitations on controlling pests directly through the PDP and to ensure any such controls are used in appropriate circumstances. I therefore recommend that a new policy is introduced with similar wording to that recommended in the Far North Proposed District Plan (IB-P9), which was subject to testing and refinement through the hearing process. My recommended wording for this new policy is “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”. In my view, this responds to the submissions above and other submissions requesting more specific policy direction on managing pests in the ECO Chapter. It also complements the policy direction in ECO-P4 to enable the removal and management of pest plants and animal species.

- 
141. K P Dreadon Ltd [237.18] request that a new clause be added to ECO-P4 to explicitly enable transferable development right mechanisms that coordinate protection and enhancement across multiple properties to achieve landscape-scale ecological outcomes.
142. The issue of whether a transferable development rights mechanism should be introduced, as requested by K P Dreadon, will be considered in more detail as part of the Subdivision Chapter topic to be heard later this year. Regardless of whether a transferable development rights mechanism is recommended through that hearing, in my view, the substance of this submission point is best addressed through the Subdivision Chapter in the PDP, and it is not necessary or appropriate to refer to transferable development rights in the ECO Chapter.
143. NRC [332.64] request that ECO-P4 be redrafted to better reflect the direction in the RPS regarding overall biodiversity outcomes but does not suggest any specific wording to achieve this relief. I therefore do not recommend any amendments in response to this submission point from NRC but can consider further amendments in response to any evidence provided before the hearing.
144. Forest & Bird [149.43] and DOC [304.70] request a range of amendments to ECO-P4 with the intent of better giving effect to the NPS-IB as follows:
- a. Forest & Bird argues that ECO-P4 should reflect the restoration direction in Clause 3.21 of the NPS-IB, provide for the use of consent or designation conditions for new use and development and encourage identification of areas that meet the significance criteria in the RPS, as set out in the Wildlands report prepared for KDC. Forest & Bird also request a commitment from KDC to continue to ground truth the significant biodiversity areas identified in the Wildlands report.
  - b. DOC considers that ECO-P4 should only be retained if it is redrafted to give effect to Policy 10 and Clause 3.5 and provide for the exercise of kaitiakitanga by tangata whenua in protecting, maintaining, and restoring indigenous biodiversity within their rohe.
145. Te Uri o Hau [367.32] request an additional clause be inserted into ECO-P4 (as they have requested for all other ECO policies) to better recognise their role as kaitiaki of indigenous biodiversity as follows: “Enable mana whenua to uphold their role as kaitiaki to protect, enhance and maintain indigenous biodiversity, ecosystem health, and taonga species and habitats.”
146. I make the following comments regarding the submissions requesting changes to ECO-P4 from DOC, Forest & Bird and Te Uri o Hau:
- a. I agree that ECO-P4 can better give effect to the NPS-IB with respect to the exercise of kaitiakitanga by tangata whenua. I therefore recommend amending clause (1) in

ECO-P4 to recognise the role of tangata whenua as kaitiaki in the restoration of indigenous biodiversity, as requested by DOC and Te Uri o Hau, noting that I consider my recommended wording in Appendix B is a more streamlined version of that requested by Te Uri o Hau that broadly achieves the same intent.

- b. I agree that the ECO policies should be amended to better give effect to Clause 3.21 of the NPS-IB with respect to prioritising restoration activities. Restoration is already a concept covered by ECO-O3 and ECO-P4 at a high level and a new policy outlining the national priorities for restoration activities will provide more specificity as to how the restoration policies as a whole will be achieved. My recommended wording for this policy is shown as new policy ECO-PX in **Appendix B**, which is based on the wording in Clause 3.21 in the NPS-IB and an equivalent policy that I recommended for the Far North Proposed District Plan (IB-PX).
- c. I do not recommend any amendments to encourage identification of areas that meet the ecological significance criteria in the RPS. As discussed under Topic 1, the future requirements about identifying SNA (or alternative) are unclear and uncertain and therefore encouraging areas that meet the ecological significance criteria in the RPS to be identified could create unnecessary costs and rework. Further, in my view, the policy direction in ECO-P1 and ECO-P2 will be sufficient to ensure the ecological significance of areas are assessed when resource consent is required for indigenous vegetation clearance (i.e. this assessment is necessary to correctly apply the policy direction).

#### 7.2.5 ECO-P5 – Non-regulatory mechanisms

- 147. Seven submissions were received on ECO-P5, with five of those requesting that the policy be retained as notified – being Fish & Game [267.6], Federated Farmers [136.56], Tappenden Holdings Ltd [289.66], Daytona Trust [263.66] and Bream Tail [300.83].
- 148. K P Dreadon Ltd [237.19] requests that the following sentence be added to ECO-P5 to incentivise the legal protection and management of significant indigenous vegetation and habitats:

“Legal protection may also be achieved through frameworks such as transferable development rights, which incentivise and systematise protection and restoration outcomes”

- 149. As discussed above, the issue of whether a transferable development rights mechanism is introduced into the PDP will be heard at the Subdivision hearing later this year which, in my view, is the appropriate chapter in the PDP to address the merits of this mechanism. Accordingly, I do not support this wording being included in ECO-P5 when no such frameworks are currently proposed in the PDP and any framework should be considered for inclusion in the Subdivision

Chapter. I also note that the Subdivision Chapter includes provisions relating to “Environment benefit subdivision” (SUB-R9) which are aimed at incentivising the protection of areas of significant indigenous biodiversity through legal protections (covenants etc). In this respect, I consider that the PDP provides both opportunities to incentivise the protection of indigenous biodiversity through legal mechanisms and through the non-regulatory methods encouraged through ECO-P5.

150. As for the other ECO Chapter policies, Te Uri o Hau [367.32] requests an additional clause be inserted into ECO-P5 to recognise the role of mana whenua as kaitiaki of indigenous biodiversity. I consider that my recommended amendments to ECO-O4 and ECO-P4 sufficiently address this issue, as set out above.

#### 7.2.6 New policies

151. Three submitters request new policies in the ECO Chapter to address specific areas of concern. Amanda (Mandy) Harris [122.7] requests a new policy that directs KDC to refuse approval for significant decisions relating to land use, infrastructure investment or areas vulnerable to climate change effects unless there is formal input from:

- a. A qualified climate resilience specialist or professional planner with demonstrated experience in climate risk assessment; and
- b. A representative of mana whenua with ancestral ties to the affected land or waterway.

152. DOC [304.71] requests a new policy in the ECO Chapter to specifically refer to Appendix 5 of the RPS to ensure applications that fail to comply with ECO-R2 are assessed consistently, with suggested wording as follows:

**“ECO-PX Areas of Significant Indigenous Biodiversity**

Require activities not provided for in ECO-R1 to obtain from a suitably qualified and experienced ecologist confirming that the indigenous vegetation proposed to be cleared does not meet the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna to undertake clearance large scale clearance of indigenous vegetation.”

153. NRC [332.18] request a new policy to reflect the RPS policy direction on no net biodiversity loss as follows:

**“ECO-PX Protection and maintenance of indigenous biodiversity**

---

Ensures no net loss of indigenous biodiversity by controlling: the disturbance of land, clearance of vegetation and introduction or keeping of species with recognised pest potential.”

154. With respect to the submission from Ms Harris, it is not appropriate in my view for a district plan policy to direct a decision-maker to decline a resource consent application on the grounds that formal input from specified third parties has not been obtained. While I agree that specialist input from climate experts and mana whenua can be valuable, and potentially essential, to inform certain resource consent applications, it is not appropriate in my view for a policy in the ECO Chapter to mandate this involvement or direct the outcome of a resource consent process. Further, it will be problematic to determine when this formal input is required for “significant decision” as this will vary from application to application.
155. With respect to the DOC submission, I consider that direction on information requirements for ECO-R1, including obtaining ecological input, are best considered as part of the rule framework rather than introducing a new policy. In Topic 6 below, I consider the requirements for an ecologist report in the context of submissions on ECO-R2. In short, I do not consider it appropriate for the ECO Chapter to direct all applicants to engage an ecologist to undertake an assessment of whether indigenous vegetation meets the criteria in Appendix 5 of the RPS simply because there is no mapping of these areas in the PDP.
156. In terms of the request from NRC, I have recommended a new policy above relating to controls on pests to give effect to Method 4.4.3 of the RPS and the ECO Chapter rules are focused on controlling the clearance of indigenous vegetation. The main outstanding issue therefore relates to whether the ECO Chapter needs to explicitly state or require an outcome of achieving no net loss in indigenous biodiversity. In this respect, I note that:
- a. KDC has the function of controlling the use of land for the purposes of maintaining indigenous biodiversity under section 31(1)(b)(iii) of the RMA but this does not equate to no net loss.
  - b. The NPS-IB objective is to “*maintain indigenous biodiversity across Aotearoa so that there is at least no overall loss in indigenous biodiversity after the commencement date*”. My understanding is that this direction to achieve no overall loss in indigenous biodiversity applies at national level, not necessarily at the regional, district or consent level.
  - c. The RPS refers to “maintaining the extent and diversity of indigenous ecosystems and habitats in the region” in Objective 3.4 and “no net loss” in the definition of “biodiversity offsets” and “environmental biodiversity compensation”. However, there is no specific direction to achieve no net loss in indigenous biodiversity at a district-level.

157. Therefore, in my view, the policies in the ECO Chapter provides sufficient direction on the outcomes that need to be achieved – i.e. protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna and maintaining indigenous biodiversity and the key district plan controls to achieve these outcomes i.e. controlling indigenous vegetation clearance and pests) without needing to specify a no net loss requirement to be achieved in all decision-making.

### 7.3 Recommendations

158. I recommend that the following amendments are made to the ECO policies:

- a. That a new clause is inserted into ECO-P3 with the following wording: Enables mana whenua to develop on whenua Māori and Treaty settlement land, where adverse effects on biodiversity are managed and minimised.
- b. That a new policy (ECO-PX – Restoration priorities) is included with the following wording:

Promote the restoration of indigenous biodiversity, with priority given to:

1. Areas of significant indigenous vegetation and significant habitat of indigenous fauna whose ecological integrity is degraded;
2. Threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems;
3. Areas that provide important connectivity or buffering functions;
4. Natural inland wetlands where ecological integrity is degraded or these no longer retain their indigenous vegetation or habitat for indigenous fauna;
5. Areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners; and
6. Any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.

- c. That a new policy (ECO-PY – Managing pets and pest plants and animal species) is included with the following wording:

“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”.

## 8. Topic 6: ECO Chapter rules

### 8.1 Introduction

159. There are two rules in the ECO Chapter that work as a pair to control the clearance of indigenous vegetation. ECO-R1 lists a range of activities or purposes where the clearance of indigenous vegetation and associated land disturbance is a permitted activity. The range of activities and purposes for indigenous vegetation clearance provided for as permitted activities in ECO-R1 broadly fall into the following categories:

- a. Clearance to address public health or safety concerns, for example to address immediate risk to public safety or damage to property, clearance for firebreaks, clearance for biosecurity purposes. These types of activities have no specified limits on the amount of indigenous vegetation allowed to be cleared.
- b. Clearance for specific activities with distances or thresholds applied to limit the amount of clearance, for example clearance to provide a 20m setback from a residential unit, 3.5m either side of a new fence to protect indigenous vegetation, or for walking tracks less than 1.5m wide.
- c. Clearance of indigenous vegetation from land that was previously cleared where that indigenous vegetation is less than 10 years old.
- d. Clearance provided for under other legislation or processes, for example Queen Elizabeth II National Trust Act 1977, Reserves Act 1977, Conservation Act 1987, Forests Act 1949 or a Ngā Whenua Rāhui Kawenata. These types of activities also have no specified limits on the amount of indigenous vegetation allowed to be cleared.
- e. Clearance for the operation, repair or maintenance of a specified list of lawfully established activities, including fences, infrastructure, buildings, driveways, farm drains and a range of tracks.

160. If the indigenous vegetation clearance is not specifically provided for under ECO-R1, it is assessed under the area thresholds in ECO-R2. ECO-R2 then sets out the following area thresholds of indigenous vegetation clearance to be permitted activity:

- a. Clearance must not exceed 1,000m<sup>2</sup> per site in any calendar year in the Māori purpose zone, General rural zone, and Rural lifestyle zone; or
- b. Clearance must not exceed 500m<sup>2</sup> per site in any calendar year in all other zones.

161. If the indigenous vegetation clearance exceeds these thresholds, resource consent is required for:
- a. A restricted discretionary activity if 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 RPS (Areas of significant indigenous vegetation and significant habitats of indigenous fauna); or
  - b. A discretionary activity, if no ecological assessment of the ecological significance indigenous vegetation proposed to be cleared is included in the resource consent application.

## 8.2 Analysis

### 8.2.1 ECO-R1: Indigenous vegetation clearance and any associated land disturbance for specified activities

162. 18 submissions were received on ECO-R1 in addition to those received from infrastructure provider submitters addressed in Topic 2 above. Of the 18 submission points, four request that ECO-R1 be retained as notified, being FENZ [308.43], Manulife [158.2], Federated Farmers [136.64] and Adam Booth [67.2]. In addition to supporting ECO-R1, Federated Farmers requests that ECO-R1 be relocated to the Earthworks Chapter as the clearance of indigenous vegetation is a subset of earthworks.
163. Ten submission points, being from Horticulture NZ [140.47, 140.50], Tappenden Holdings Ltd [289.13], Bream Tail [300.15], Daytona Trust [263.13], Piroa Conservation Trust [257.28], J&C Hawley [272.32], Marunui Conservation Ltd [278.31], NZAA [146.27] and Fish & Game [267.7], support ECO-R1 but request amendments, which are set out in Table 1 below.
164. Four submission points from NRC [332.20], Forest & Bird [149.44], Cato Bolam [217.43] and DOC [304.73] oppose ECO-R1 for a range of reasons, including that the permitted clearance thresholds are too permissive, that the rule fails to implement and give effect to section 6(c) of the RMA, the NPS-IB and the RPS, and the rule will result in excessive indigenous vegetation clearance and associated loss of indigenous biodiversity values. NRC is particularly concerned that ECO-R1 will result in cumulative losses of indigenous biodiversity and does not recognise that regenerating indigenous vegetation less than 10 years old can provide a potential habitat for threatened indigenous species.
165. DOC is concerned that ECO-R1 does not provide for the management of kauri dieback disease and requests that rules within the National Parks Management Plan are included in the rule.

166. Forest & Bird considers that ECO-R1 risks undermining the protection and maintenance of indigenous biodiversity by providing a blanket permitted activity status for clearance for a range of purposes, which is concerning given there is no mapped of. Forest & Bird also raise concerns that there is no requirement for an ecological assessment of the indigenous vegetation being cleared, nor are there any limits imposed based on ecological context, habitat types, or SNA connection. Forest & Bird considers this approach could result in incremental loss of indigenous vegetation throughout the Kaipara District.
167. To address these concerns, Forest & Bird request that ECO-R1 be redrafted to:
- a. Remove any subclauses that provide for an unlimited total area of clearance of indigenous vegetation as a permitted activities where not specifically intended by the NPS-IB; and
  - b. Apply thresholds on the area of indigenous vegetation that can be cleared over the lifetime of the PDP or a 12-month period where appropriate.
168. In broad terms, I consider that the intent of ECO-R1 is generally sound. Its purpose is to avoid unnecessary consent requirements and costs for indigenous vegetation clearance associated with routine, essential, important, and (generally) low risk activities, if implemented as intended. However, I acknowledge the concerns of some submitters that ECO-R1 is overly permissive and agree that there is a need to consider the appropriateness of each of the permitted pathways within the rule in response to concerns raised in submissions. This analysis is provided in Table 1 below.
169. Firstly, I respond to the submissions requesting more general amendments to ECO-R1 as follows:
- a. I do not recommend relocating ECO-R1 to the Earthworks Chapter, as requested by Federated Farmers, as I disagree that the clearance of indigenous vegetation is a subset of earthworks. In my view, indigenous vegetation clearance is an activity in its own right. Rules to control it are inherently part of maintaining indigenous biodiversity whereas earthworks rules are designed to manage a range of other effects (sedimentation, land stability etc.). Further, provisions to manage indigenous biodiversity are required to be addressed in the ECO Chapter under the National Planning Standards, which the PDP must give effect to. Where earthworks also involve indigenous vegetation clearance, both the provisions in the ECO Chapter and Earthworks Chapter apply as relevant, which is appropriate in my view.
  - b. I have addressed the request from DOC for provisions in the ECO Chapter to manage kauri dieback disease in Topic 3 of this report. I reiterate my position that DOC has not

provided sufficient information to support this request by simply requesting that rules from the National Parks Management Plan are integrated into ECO-R1. DOC also has not provided any specific reasoning as to how effective and efficient this approach will be to manage kauri dieback and achieve the objectives in the ECO Chapter in accordance with section 32AA of the RMA. In my view, further information is required from DOC before this submission point can be adequately evaluated which it may choose to do before the hearing. Further, my understanding is that earthworks is the main activity that creates the risk of spreading kauri dieback disease so that may be the most appropriate PDP chapter to deal with this issue. Again, a matter that DOC may choose to provide more evidence on prior to the hearing.

- c. I acknowledge the risks raised by Forest & Bird that a permitted activity status for indigenous vegetation clearance associated with a range of activities and purposes without SNA mapping risks incremental loss of indigenous vegetation in the Kaipara District, and that this loss could include areas with significant ecological values. I also agree that imposing specific numeric limits on indigenous vegetation clearance for some of these activities in ECO-R1 would result in a rule that was more certain, effective and enforceable.
- d. However, in practice, it will be difficult and problematic to assign workable numeric thresholds to some of the activities listed in ECO-R1 (e.g. clearance to address an immediate risk to public safety or damage to property, clearance to maintain existing farming tracks). This is because the required area of clearance will be based on specific circumstances and I am not aware of any evidence on numeric thresholds that are both effective and efficient. Assigning numeric thresholds for all the activities and purposes listed in ECO-R1 would therefore be arbitrary. In this respect, I consider that the need to limit indigenous vegetation clearance to maintain indigenous biodiversity within the Kaipara District needs to be balanced with what is reasonable and achievable in practice when providing for routine, essential and (generally) low-risk activities.

170. In addition to these general submissions, the more specific requested amendments to the sub-clauses of ECO-R1 are extensive. Table 1 below sets out the sub-clauses within ECO-R1, summarises the amendments requested to each sub-clause by submitters, and provides a response and recommendations to those submissions.

**Table 1: Response to requested amendments – ECO-R1**

Sub-clause	Requested relief	Response to requested relief
<p>a. To address an immediate risk to the public safety or damage to property;</p>	<ul style="list-style-type: none"> <li>DOC [304.73] request that this clause is replaced with the wording “<u>To remove, dead, diseased or damaged indigenous vegetation presenting an imminent threat to human life</u>”.</li> </ul>	<ul style="list-style-type: none"> <li>The requested wording from DOC narrows the scope of this clause to “<u>an imminent threat to human life</u>”, which, in my view, is a very high bar to meet and difficult to prove in practice. I consider that the notified wording of the clause is more appropriate as it focuses on immediate risk to both public safety and property damage – both circumstances where action may need to be taken in a timely manner to clear indigenous vegetation. It is also broadly aligned with the corresponding clause in the NPS-IB which provides an exemption to the SNA protections to “address a high risk to public health and safety”<sup>10</sup>. Accordingly, I recommend that clause (a) in ECO-R1 is retained as notified.</li> </ul>
<p>b. The formation of walking tracks less than 1.5m wide;</p>	<ul style="list-style-type: none"> <li>Forest &amp; Bird [149.44] request deletion of this sub-clause. Forest &amp; Bird considers this (and other clauses in the rule could result in incremental loss of indigenous vegetation throughout Kaipara District.</li> </ul>	<ul style="list-style-type: none"> <li>I disagree that clause should be deleted as requested by Forest &amp; Bird as walking tracks are often a necessary part of accessing and maintaining an area of indigenous vegetation. Limiting the width of the walking track to 1.5m also ensures that the amount of clearance is limited and is an appropriate, reasonable width for a walking track.</li> </ul>
<p>c. The construction of a new fence where the purpose of the</p>	<ul style="list-style-type: none"> <li>DOC [304.73] request that this clause is replaced with the wording “<u>In</u></li> </ul>	<ul style="list-style-type: none"> <li>Firstly, I disagree with DOC that this clause should be limited to specific zones as fences to protect indigenous vegetation from stock and pests may be located</li> </ul>

<sup>10</sup> Clause 3.10(6)(a) of the NPS-IB

Sub-clause	Requested relief	Response to requested relief
<p>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 either side of the fence line;</p>	<p><u>the general rural, natural open space, open space and rural lifestyle zones to maintain, relocate or construct (outside of natural wetland SNAs) perimeter fences to exclude stock and/pests from the area of indigenous vegetation where any trimming, pruning or removal is within 1 m of the fence</u>".</p>	<p>outside the General rural, Natural open space, Open space and Rural lifestyle zones (although I acknowledge it will generally be required in these zones, and potentially the Māori purpose zones).</p> <ul style="list-style-type: none"> <li>• However, I consider that the clause can be amended to help address the concerns that it is overly permissive as allowing clearance of 3.5m either side of the fence seems excessive in my view (i.e. 7m in total). My understanding is that indigenous clearance under this clause will be primarily on one side of the fence, given that the purpose of the fencing is to exclude stock and pests from an area of indigenous vegetation (which would naturally be located on the other side of the fence). My expectation is that 3.5m total will still allow a small farm vehicle and machinery to operate on one side of the fence while limiting unnecessary clearance on the other side. I therefore recommend that clause (c) is amended to only allow for clearance of up to 3.5m in width in total.</li> </ul>
<p>d. To remove pest species in accordance with any approved pest management plan or biosecurity operational plan;</p>	<ul style="list-style-type: none"> <li>• Horticulture NZ [140.47, 140.50] request amendments to refer to "diseased vegetation" as well as pest species and introduce a reference to the Biosecurity Act 1993 to better align the wording with the Northland Regional Pest Management Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Firstly, I agree with Horticulture NZ and DOC that the wording of this clause could be improved by linking this more specifically to works required under the Biosecurity Act 1993. More specifically, I agree that the clause should include a reference to removing material infected by unwanted organisms under the Biosecurity Act 1993, which appropriately broadens the clause from "pest species". However, I consider that disposing of "diseased vegetation" is inherently part of removing material infected by unwanted organisms under the Biosecurity Act 1993, so a specific</li> </ul>

Sub-clause	Requested relief	Response to requested relief
	<ul style="list-style-type: none"> <li>• DOC [304.73] request that this sub-clause is replaced with the wording “<u>For pest species management and any other activities identified in the Northland Regional Pest Management Plan and for the removal of material infected by unwanted organisms under the Biosecurity Act 1993</u>”.</li> <li>• Fish &amp; Game [267.7] request the inclusion of a qualifier with regards to who approves a management plan i.e. the District or Regional Council or the Department of Conservation.</li> </ul>	<p>reference to “diseased vegetation”, as requested by Horticulture NZ, seems unnecessary in my view.</p> <ul style="list-style-type: none"> <li>• I disagree with Fish &amp; Game that a qualifier or reference to the authority that approves the pest management plan is required as part of clause (d). Pest management plans are prepared under the Biosecurity Act 1993, and I understand that these can be approved by both central government and local authorities. I therefore consider a more generic reference to “approved” pest management plan is sufficient and there is unlikely to be any risk of other persons preparing and approving alternative forms of pest management plans.</li> </ul>
<p>e. To create or maintain a 20m setback from an area of indigenous vegetation to a residential unit (excluding accessory buildings);</p>	<ul style="list-style-type: none"> <li>• Cato Bolam [217.43] request that the setback is reduced from 20m to 10m.</li> <li>• DOC [304.73] request that this exemption is limited to maintaining a setback around an existing residential</li> </ul>	<ul style="list-style-type: none"> <li>• I do not consider that this clause should be limited to existing buildings (as requested by DOC) as indigenous vegetation may be located near, or encroach onto, areas where a new building is being constructed (e.g. next to an approved building platform). In my view, it is appropriate to allow for clearance to create or maintain setbacks around existing and new (approved) residential units to manage wildfire risk, particularly in a predominately rural district like the Kaipara District. However, this</li> </ul>

Sub-clause	Requested relief	Response to requested relief
	<p>unit, not creating a new setback.</p>	<p>clause does not permit indigenous vegetation clearance for the residential unit itself as that is managed under clause (f) discussed below and is limited to existing titles.</p> <ul style="list-style-type: none"> <li>• Cato Bolam has not sufficiently demonstrated why a 10m setback is more appropriate to both protect indigenous vegetation clearance and manage wildfire risk.</li> <li>• I therefore recommend that clause (e) in ECO-R1 is retained as notified.</li> </ul>
<p>f. To allow for the construction of a single residential unit on an existing Record of Title, including essential associated on-site infrastructure and access, where total clearance does not exceed 1,000m<sup>2</sup></p>	<ul style="list-style-type: none"> <li>• Tappenden Holdings Ltd [289.13], Bream Tail [300.15] and Daytona Trust [263.13] request an amendment to also allow the construction of buildings ancillary to a single residential unit (including garages and minor dwellings) as a permitted activity with the 1000m<sup>2</sup> threshold. These submitters argue that other buildings ancillary to residential buildings should be able to be constructed without impacting the amount</li> </ul>	<ul style="list-style-type: none"> <li>• I agree with Tappenden Holdings Ltd and others that it is appropriate to allow for the construction of a garage as part of providing for a single residential unit and associated on-site infrastructure. While I consider that a garage would generally be interpreted as on-site infrastructure, a specific reference to garage clarifies this for the avoidance of doubt. This does not affect the total clearance threshold of 1,000m<sup>2</sup>.</li> <li>• However, I disagree that this allowance should be extended to cover minor residential units. The focus on a single residential unit is broadly aligned with the NPS-IB exemption relating to single residential dwellings on existing lots<sup>11</sup>. Further, minor residential units can be substantial buildings and often come with their own access and on-site infrastructure that make it more likely that 1,000m<sup>2</sup> (or</li> </ul>

<sup>11</sup> Specifically, Clause 3.11(2) which enables adverse effects on SNAs for single residential dwelling on an existing allotment subject to certain tests.

Sub-clause	Requested relief	Response to requested relief
	<p>of indigenous vegetation clearance already provided for.</p> <ul style="list-style-type: none"> <li data-bbox="563 544 842 1641">Piroa Conservation Trust [257.28], J&amp;C Hawley [272.32] and Marunui Conservation Ltd [278.31] are concerned with the 1,000m<sup>2</sup> threshold for a single residential unit, arguing that this amount of clearance is not small-scale, particularly in areas like the Piroa Brynderwyn Outstanding Natural Landscape (<b>ONL</b>). These submitters request that the more stringent vegetation clearance rules from the Coastal Environment, Natural Character, and Natural Features and Landscapes chapters prevail over ECO-R1.</li> <li data-bbox="563 1686 842 1955">Cato Bolam [217.43] request that the permitted clearance threshold for a new residential unit is reduced from 1,000m<sup>2</sup> to 500m<sup>2</sup>.</li> </ul>	<p>more) of indigenous vegetation would be cleared.</p> <ul style="list-style-type: none"> <li data-bbox="866 499 1385 1014">I consider that 1,000m<sup>2</sup> is an appropriate threshold for a single residential unit on an <u>existing</u> record of title, as opposed to 500m<sup>2</sup> as requested by Cato Bolam. The zones most likely to have large areas of indigenous vegetation and existing titles with no residential units are the General rural, Māori purpose and potentially Rural lifestyle zones. In these zones, 1,000m<sup>2</sup> is a reasonable allowance in my view, particularly when taking into account the formation of driveways to access house sites.</li> <li data-bbox="866 1059 1385 2000">I expect that there will be relatively few instances where this clause will be used as the title has to be both existing and vacant. The intent is that new subdivisions and subsequent residential units will be assessed under the thresholds in ECO-R2, which I am recommending amendments to below (refer Section 8.2.2 below). However, to ensure this permitted pathway only applies to single residential units on “existing” subdivided titles, I recommend that the clause is amended to make it clear that the existing title must be dated prior to 28 April 2025 (i.e. date PDP was notified) consistent with other provisions in the Subdivision Chapter. This will ensure that this permitted pathway cannot be used to clear indigenous vegetation associated with new subdivisions (e.g. a 5-lot subdivision under the small-lot rule with potentially 5,000m<sup>2</sup> of indigenous vegetation clearance), helping to reduce the risk of incremental loss of indigenous biodiversity.</li> </ul>

Sub-clause	Requested relief	Response to requested relief
	<ul style="list-style-type: none"> <li>• Forest &amp; Bird [149.44] and DOC [304.73] request deletion of this sub-clause.</li> <li>• Forest &amp; Bird [149.147] request that this sub-clause is replaced with a new controlled activity rule that requires an assessment under the RPS significance criteria and that the location of the building platform/site and access minimise clearance and protect areas with the highest indigenous biodiversity values.</li> </ul>	<ul style="list-style-type: none"> <li>• With respect to the concerns of Piroa Conservation Trust and others about the leniency of ECO-R1 in areas like the Piroa Brynderwyn ONL, I note that the more stringent indigenous vegetation clearance rules from the Coastal Environment, Natural Character, and Natural Features and Landscapes Chapters apply in addition to ECO-R1 when indigenous vegetation clearance is proposed in any of these areas. This is clearly stated in Advice Note 1 of the ECO Chapter and has been discussed earlier in this report.</li> <li>• I disagree with Forest &amp; Bird that this sub-clause be replaced with a new controlled activity rule. I consider that it is appropriate to allow for indigenous vegetation clearance for a residential unit on an <u>existing</u> title as permitted activity rather than controlled activity as this is broadly aligned with the NPS-IB exemption relating to single residential dwellings on existing lots discussed in relation to minor residential units above.</li> </ul>
<p>g. Clearance provided for in a covenant or order under the Queen Elizabeth II National Trust Act 1977, a Ngā Whenua Rāhui Kawenata, or the Reserves Act 1977;</p>	<ul style="list-style-type: none"> <li>• DOC [304.73] request deletion of this sub-clause.</li> </ul>	<ul style="list-style-type: none"> <li>• I consider that it is appropriate to allow for indigenous vegetation clearance provided for via a covenant (e.g., QEII, Reserves Act etc.) as permitted activity and it is unclear from the DOC submission as to why they consider this clause should be deleted, other than a broad concern from DOC that all clauses in ECO-R1 do not have a specific area threshold in m<sup>2</sup>. In my view, it would be inappropriate to impose an arbitrary threshold on vegetation clearance authorised via these types of covenants or Acts as the justification for the amount of clearance will vary depending on the</li> </ul>

Sub-clause	Requested relief	Response to requested relief
		<p>specific circumstances provided by each covenant or order.</p> <ul style="list-style-type: none"> <li>I therefore recommend that clause (g) in ECO-R1 is retained as notified.</li> </ul>
<p>h. Clearance on land held or managed under the Conservation Act 1987 and in accordance with any applicable conservation management strategy, conservation management plan, or management plan established under that Act;</p>	<ul style="list-style-type: none"> <li>Forest &amp; Bird [149.44] request deletion of this sub-clause.</li> </ul>	<ul style="list-style-type: none"> <li>I consider that it is appropriate to allow for indigenous vegetation clearance in accordance with conservation management strategies and management plans prepared under the Conservation Act, for the same reasons as set out for clause (g) above. It is unclear from Forest &amp; Bird's submission why they request deletion of this clause, but they may choose to provide more reasoning for this request in evidence or legal submission.</li> <li>Accordingly, I recommend that clause (h) in ECO-R1 is retained as notified.</li> </ul>
<p>i. The removal or clearance of indigenous vegetation from land that was previously cleared and where the indigenous vegetation to be cleared is less than 10 years old;</p>	<ul style="list-style-type: none"> <li>NZAA [146.27] request that ECO-R1.1.i be amended to provide for the maintenance of improved pasture in addition to the clearance of vegetation less than 10 years old.</li> <li>Fish &amp; Game [267.7] request a spatial parameter that limits permitted vegetation removal to no more than 250m<sup>2</sup> per</li> </ul>	<ul style="list-style-type: none"> <li>I disagree with NRC and DOC that this clause should be deleted. Being able to remove or clear regenerating indigenous vegetation on land that has previously been cleared is an important, regular maintenance task for pastoral farming. In my view, imposing a 250m<sup>2</sup> threshold per calendar year, as requested by Fish &amp; Game, would be unreasonable, particularly in a rural context. I also consider it unnecessary to restrict clearance within 5m of a waterbody as NATC-R4 in the Natural Character chapter already restricts clearance of indigenous vegetation near waterbodies.</li> </ul>

Sub-clause	Requested relief	Response to requested relief
	<p>holding per calendar year and not within 5m of a waterbody. Fish &amp; Game argues that 10-year-old indigenous regeneration vegetation can provide valuable habitat and should not be able to be removed without an area limit as a permitted activity.</p> <ul style="list-style-type: none"> <li>NRC [332.20] and DOC [304.73] request deletion of this sub-clause.</li> </ul>	<ul style="list-style-type: none"> <li>I consider that the request from NZAA to permit clearance for maintenance of improved pasture is too broad. Further, I note that the NPS-IB (Clause 3.17) provides specific direction relating to the maintenance of improved pasture for farming <u>where this may affect a SNA</u> which I recommend is given effect to through a future plan change or other planning process. I would also expect that this clause would generally allow for clearance of vegetation for the maintenance of improved pasture as it allows for clearance of regenerating vegetation.</li> <li>However, I acknowledge the general concerns that allowing for clearance of indigenous vegetation less than 10 years old is permissive and difficult to monitor and enforce with accuracy. As a way of helping to address these concerns, I recommend that clause (i) is amended to only allow indigenous vegetation less than 5 years old to be cleared as permitted activity. This will still allow for the periodic clearance of regenerating indigenous vegetation within working rural environments (including for pastoral farming) while reducing the risk of inappropriate clearance, including indigenous vegetation which may be providing a habitat for indigenous fauna.</li> </ul>
<p>j. Creation and maintenance of firebreaks to manage fire risk;</p>	<ul style="list-style-type: none"> <li>Fish &amp; Game [267.7] consider this clause too broad and open to interpretation as “firebreaks” is not defined and ‘management of firebreaks can mean</li> </ul>	<ul style="list-style-type: none"> <li>I understand the concerns raised by Fish &amp; Game, Forest &amp; Bird and DOC that this clause as notified has the potential to be used as a means of justifying indigenous vegetation clearance and avoiding compliance with the thresholds set out under ECO-R2. However, my understanding is that firebreaks are typically</li> </ul>

Sub-clause	Requested relief	Response to requested relief
	<p>different things to different people. Fish &amp; Game recommend limiting indigenous vegetation clearance for firebreaks to that which complies with sections 43 and 64 of the Fire and Emergency Act 2017.</p> <ul style="list-style-type: none"> <li>• Forest &amp; Bird [149.44] request an amendment to ensure this sub-clause is not abused by limiting functions under appropriate acts or services.</li> <li>• DOC [304.73] request deletion of this clause.</li> </ul>	<p>created to protect vulnerable activities such as residential units (as provided for in clause (e) discussed above) or to manage fire risk in commercial forestry situations (provided for by the NES-CF). Outside of these two scenarios, I consider it would be difficult for a landowner to justify the creation of a new firebreak to manage fire risk, so I expect that this clause will likely be used infrequently.</p> <ul style="list-style-type: none"> <li>• I disagree with Fish &amp; Game that indigenous vegetation clearance for firebreaks should be limited to that which complies with sections 43 and 64 of the Fire and Emergency Act 2017. While that might be an appropriate response for more sensitive natural environment value overlays, these sections only authorise Fire and Emergency New Zealand (<b>FENZ</b>) to initiate the removal of vegetation to manage fire risk and it is unclear how often FENZ exercise these powers.</li> <li>• As such, I recommend that clause (j) in ECO-R1 be retained as notified.</li> </ul>
<p>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</p>	<ul style="list-style-type: none"> <li>• DOC [304.73] request deletion of this clause.</li> </ul>	<ul style="list-style-type: none"> <li>• I note that the intent of this clause is consistent with the NPS-IB (Clause 3.11(5)) and it is appropriate in my view to allow for harvesting of indigenous timber where this is under an approved plan or permit under the Forest Act 1949. It is unclear why DOC are requesting deletion of this clause, other than the broad concern from DOC with all clauses not constrained by an area clearance threshold. In my view, it would be inappropriate to impose an arbitrary threshold on indigenous vegetation clearance authorised via these types of</li> </ul>

Sub-clause	Requested relief	Response to requested relief
		<p>management plans or permits for the same reasons as set out for clause (g) above.</p> <ul style="list-style-type: none"> <li>Accordingly, I recommend that clause (k) in ECO-R1 is retained as notified.</li> </ul>
<p>I. Clearance for the operation, repair or maintenance of the following activities where they have been lawfully established:</p> <ul style="list-style-type: none"> <li>i. Fences;</li> <li>ii. Infrastructure;</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>	<ul style="list-style-type: none"> <li>Forest &amp; Bird [149.44] request that the extent of permitted clearance is limited to a certain distance from existing lawfully established activities e.g. within 1m.</li> <li>DOC [304.73] request deletion of this sub-clause.</li> </ul>	<ul style="list-style-type: none"> <li>I do not consider that it is appropriate to limit clearance to 1m either side of these activities as requested by Forest &amp; Bird. This is because as the actual required clearance will depend on site and project specific circumstances and 1m could be overly restrictive or permissive based on the particular circumstance. I therefore recommend that clause (l) in ECO-R1 is retained as notified, other than the amendments to this clause I have recommended in Topic 2 above.</li> </ul>

8.2.2 ECO-R2: Indigenous vegetation clearance and any associated land disturbance not provided for under ECO-R1

171. 13 submissions were received on ECO-R2, in addition to those received from infrastructure providers addressed in Topic 2 above. Of the 13 submission points, two submitters request that ECO-R2 be retained as notified, being Horticulture NZ [140.51] and NZDF [284.16].

172. The remaining 11 submission points request that ECO-R2 is either amended or deleted, with submissions focusing on a range of issues, which I address below under three topics:

- a. The permitted indigenous vegetation clearance thresholds and “per calendar year” temporal control
- b. The need for an ecological assessment to be provided to be a restricted discretionary activity when the permitted thresholds are exceeded
- c. General concerns with ECO-R2.

Permitted indigenous vegetation clearance thresholds and timeframes

173. 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] are all concerned that ECO-R2 is too permissive, particularly the permitted thresholds and associated “per calendar year” temporal control. Due to its permissiveness, these submitters consider that ECO-R2 is not aligned with the NPS-IB or RPS and will result in significant cumulative adverse effects on indigenous biodiversity over the life of the PDP. These submitters request a range of alternative thresholds and associated timeframes for ECO-R2 as follows:

- a. Aoroa Farms consider that all indigenous vegetation clearance should be prevented unless it is for an activity or purpose stated under ECO-R1 as unjustified indigenous vegetation clearance is irresponsible given that indigenous ecosystems are in decline and cumulative adverse effects are likely to occur.
- b. Madara Vilde requests a tiered approach:
  - i. Up to 5m<sup>2</sup> per site, per calendar year within areas identified as significant under Appendix 5 of the RPS
  - ii. Up to 100m<sup>2</sup> per site, per calendar year outside of areas identified as significant under Appendix 5 of the RPS
  - iii. Up to 500m<sup>2</sup> for the purpose of creating a house site, subject to a management plan and other mitigation measures
- c. 100m<sup>2</sup> per site, per calendar year, unless other qualifiers are introduced, similar to the proposed Far North District Plan (Fish & Game)
- d. 500m<sup>2</sup> per site over a ten-year period (NRC).

174. DOC also requests a tiered approach where the larger permitted thresholds of 500-1,000m<sup>2</sup> can be retained as notified if a report has been obtained from a suitably qualified ecologist confirming

that the indigenous vegetation is not significant using the criteria in Appendix 5 of the RPS. If no ecological assessment is obtained, then DOC request that the maximum indigenous vegetation clearance threshold per year be set at 100m<sup>2</sup>.

175. There is a clear split between submitters supporting the indigenous vegetation clearance thresholds in ECO-R2 as notified (namely primary sector submitters and infrastructure providers) and those requesting more stringent thresholds. From my experience, it is very difficult to develop robust, fit-for-purpose indigenous vegetation clearance thresholds, particularly where there is no mapping of SNAs within the district, as is the case with Kaipara District and the PDP. This is because the most appropriate threshold from an ecological perspective varies based on a range of factors (e.g. the type of vegetation present, whether the vegetation provides known habitat for Threatened or At-Risk indigenous fauna) and whether it meets the relevant criteria for being an area of significant indigenous vegetation or significant habitat of indigenous fauna. In districts where there is no SNA mapping, there is an inevitable risk that any thresholds proposed are either too stringent and/or too permissive as the ecological significance of the indigenous vegetation being cleared is not certain.
176. In my view, the indigenous vegetation clearance thresholds in ECO-R2 need to be set at a level that is consistent with the policy direction in the ECO Chapter and gives effect to the higher order planning instruments. These thresholds also need to be pragmatic from a landowner perspective to ensure the thresholds do not impose significant compliance costs, considering the predominately rural nature of the Kaipara District. In this respect, I note that the thresholds notified in ECO-R2 are significantly less than in the ODP, which permits up to 5ha of indigenous vegetation clearance in certain circumstances.
177. To assist in identifying appropriate thresholds for ECO-R2, I have undertaken a review of indigenous vegetation clearance thresholds in a sample of district plans, which is provided as **Appendix E**. This review illustrates that clearance thresholds vary across the country and often this variation relates to whether there is any mapping of SNAs within a district<sup>12</sup>. However, at a broad level, the review indicates that the ECO-R2 thresholds as notified are higher than in most other districts, particularly as these thresholds only apply where the clearance is not permitted under ECO-R1.

---

<sup>12</sup> It should be noted that indigenous vegetation clearance thresholds are the most commonly used tool to manage effects outside of areas identified as SNA in other district plans, or in districts like Kaipara where SNAs are not mapped (or are only partially mapped). The only district plans reviewed that did not use indigenous vegetation clearance thresholds were those plans where SNAs had been fully mapped in the district so there is confidence that all significant areas of indigenous vegetation had been identified and more permissive controls are therefore appropriate outside these areas

---

178. Therefore, while I acknowledge that the thresholds are inevitably somewhat arbitrary, I recommend that the thresholds in ECO-R2 are reduced as follows:

- a. It does not exceed ~~500~~ ~~1,000~~m<sup>2</sup> per site in any calendar year in the Māori purpose zone, General rural zone, and Rural lifestyle zone; or
- b. It does not exceed ~~250~~ ~~500~~m<sup>2</sup> per site in any calendar year in all other zones.

179. In my view, these revised thresholds are more appropriate and effective in giving effect to the higher order documents while also not being overly onerous based on the range of considerations outlined above. I do not recommend that the thresholds are amended to apply over the life of the PDP or 10 years as suggested by submitters. Extending the thresholds to apply over this timeframe becomes more complex and challenging to monitor and enforce and I expect the risk of landowners incrementally clearing indigenous vegetation each calendar year is likely to be low given this rule will typically apply when land is being developed through subdivision.

#### Ecological assessment for a restricted discretionary activity status

180. Daytona Trust [263.14], Tappenden Holdings Ltd [289.14] and Bream Tail [300.16] consider that the requirement for an ecological assessment to determine the ecological significance of the indigenous vegetation proposed to be cleared under Appendix 5 of the RPS is an unreasonable burden for applicants seeking a restricted discretionary activity pathway under ECO-R2.2. These submitters argue that it is the responsibility of KDC to undertake a district wide assessment of indigenous vegetation to determine significance and that this responsibility should not be unfairly placed on landowners in the absence of this wider assessment. These submitters also raise concerns about the criteria in Appendix 5 being inconsistently applied by applicants and their ecologists and consider that the matters of discretion in ECO-R2.3 give KDC ample scope to assess the effects of indigenous vegetation clearance on indigenous biodiversity values. The requested relief from these submitters is removal of the ecological assessment requirement from ECO-R2.2 and deletion of ECO-R2.4.

181. The inevitable consequence of not mapping SNAs is that there is no certainty on what indigenous vegetation in the Kaipara District has significant ecological values until such time as an ecological assessment is undertaken, which means resource consent applications for indigenous vegetation clearance require more upfront information to evaluate the potential effects of the clearance. The requirement in ECO-R2.2 for landowners to obtain an expert ecological assessment of the indigenous vegetation proposed to be cleared to achieve a restricted discretionary activity status was intended to incentivise landowners to undertake this assessment proactively when the permitted activity thresholds are exceeded.

- 
182. However as notified, the outcome of the ecological assessment does not determine the activity status of the proposed activity resource consent – it is the provision of the ecological assessment that does. In this sense, condition (a) in ECO-R2.2 functions more as an information requirement and, in most cases, I expect KDC would likely request such an assessment as part of processing the application.
183. As such, I agree with the submitters that condition (a) in ECO-R2.2 and the discretionary activity pathway can be deleted from the rule as the matters of discretion in ECO-R2.2 provide KDC with sufficient scope to assess the effects of indigenous vegetation clearance on indigenous biodiversity values. However, I consider it appropriate to amend the matters of discretion to refer to the criteria in Appendix 5 of the RPS to 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. My recommended amendments to achieve this are shown in Appendix B.

General concerns with ECO-R2

184. Forest & Bird [149.46] requests that ECO-R2 be deleted or alternatively is only applied outside of areas identified in the Wildlands Report as meeting the RPS significance criteria in Appendix 5. Forest & Bird is concerned that repeated clearance or disturbance events below the permitted clearance thresholds could result in significant cumulative effects ecological integrity over the life of the PDP. Forest & Bird note that, from the Section 32 report, ECO-R2 does not appear to be based on ecological advice.
185. To replace ECO-R2, Forest & Bird request a range of new rules in the ECO to give effect to Policies 7 and 8 of the NPS-IB that direct that adverse effects on indigenous biodiversity from new subdivision, use and development on and outside of SNAs are avoided or managed. These include:
- a. A new restricted discretionary activity rule for indigenous vegetation clearance and land disturbance that does not meet limit standards [149.45]
  - b. A new restricted discretionary rule for subdivision that is in or affects significant indigenous fauna or habitats, or indigenous biodiversity [149.47]
  - c. A new “catch-all” rule for any use or development not provided for in the ECO chapter as a discretionary activity [149.148].
186. Forest & Bird requests that the matters of discretion for the new restricted discretionary activity rules cover a range of matters, including effects on indigenous biodiversity, extent of clearance and practicable alternative locations or methods to avoid or reduce the extent of

clearance/disturbance, measures to avoid, remedy, mitigate, offset or compensate, reasons for the activities and any positive effects.

187. With respect to the submission point from Forest & Bird, I have acknowledged within this report there is a greater risk of cumulative effects on indigenous biodiversity in districts where no mapping of SNAs has been undertaken. However, I do not recommend a separate rule regime for within and outside significant indigenous fauna or habitats as suggested by Forest & Bird as such a rule framework would be problematic to apply without mapping these (i.e. it would not be sufficiently certain whether the clearance is permitted or requires a restricted discretionary activity consent).
188. I also do not see a reason for a new “catch-all” rule for any use or development not provided for in the ECO Chapter as a discretionary activity. In my view, ECO-R1 and ECO-R2 already address all potential circumstances where indigenous vegetation clearance and associated land disturbance are proposed and there are no other unforeseen circumstances that would necessitate a catch-all rule.
189. I also acknowledge that the thresholds in ECO-R2 are not based on advice from an ecologist. In my view, ECO-R2 is a planning solution that attempts to provide a balance between indigenous biodiversity protection and practical thresholds that allow for clearance associated with low-risk, common and essential activities to be undertaken without needing a resource consent. In my experience, an ecologist would find it difficult to set a permitted clearance threshold at a level where they were confident that there would be few, or no, adverse effects on indigenous biodiversity without SNA (or equivalent) mapping. As discussed above, the most appropriate threshold from an ecological perspective varies based on a range of factors and a “one size fits all” threshold will not be able to address all ecological factors.
190. DOC [304.74] is concerned that ECO-R2 does not consider Kauri Dieback risk. The requested relief is that ECO-R2 is amended to include the rules provided in the Biosecurity (National PA Pest Management Plan) Order 2022 (SL 2022/208) (as at 23 December 2023) as assessment criteria to manage Kauri Dieback. As discussed above with respect to Kauri Dieback risk, I consider that DOC needs to demonstrate with more specificity and certainty that additional provisions are appropriate, effective and efficient in the Kaipara District and outline how the National Pest Management Plan rules should be incorporated into ECO-R2. Should this more detailed reasoning and requested relief be provided by DOC through evidence, I can consider this prior to the hearing.

### 8.2.3 Other submissions relating to rules

191. DOC [304.72] requests that a new note is added to the rules section of the ECO Chapter as follows:

---

“Pursuant to Section 86B(3) of the Resource Management Act, the following rules that protect areas of significant indigenous vegetation or areas of significant habitats of indigenous fauna have immediate legal effect: ECO-R1 to ECO-R2.”

192. DOC notes that, as notified, the PDP does not acknowledge the immediate legal effect of rules that protect areas of significant indigenous vegetation or areas of significant habitats of indigenous fauna.
193. J Warden [319.11] requests amendments to the permitted activity standards in the ECO Chapter to reflect zones so they are less permissible and confusing.
194. I agree with DOC that the ECO Chapter rules have immediate legal effect under section 86B(3) of the RMA and that the “gavel” notation has been missed off this chapter, which was an oversight when the PDP was notified. I disagree that a new note is required to address this as this would be inconsistent with how rules with immediate legal effect have been identified throughout the PDP. I note that, regardless of whether an e-plan correctly identifies the provisions that have immediate legal effect, section 86B(3) of the RMA applies regardless. The gavel notations are a non-statutory part of the PDP that are intended to be a helpful signpost to plan users to identify when rules in the proposed plan have legal effect rather than being a necessary step before a rule has immediate legal effect. As such, I recommend that the gavel notation is applied to ECO-R1 and ECO-R2, which can be implemented as a clause 16 amendment to correct a minor error.
195. With respect to the submission from J Warden, I am unclear on what amendments would address the concern that the ECO Chapter rules are too permissive and confusing. It is also unclear how ECO-R2 should better reflect zones as the thresholds in ECO-R2 distinguish between rural zones and the Māori purpose zone and other zones. I therefore do not recommend any amendments in response to this submission.

### 8.3 Recommendations

196. I recommend that:
  - a. The spelling error in the title of ECO-R1 (missing ‘i’ in the word ‘activities’) is addressed as a clause 16 amendment.
  - b. The words “~~either side of the fence line~~” are deleted from ECO-R1.1(c)
  - c. The words “~~or to control unwanted organisms as a response to directions of a person authorised under the Biosecurity Act 1993~~” are added to the end of ECO-R1.1(d)
  - d. The words “~~dated prior to 28 April 2025~~” are added after the word “Title” in ECO-R1.1(f)
  - e. The words “~~a garage~~” are added after the word “infrastructure” in ECO-R1.1(f).

- f. The age of indigenous vegetation able to be removed from previously cleared land is reduced from 10 years to 5 years old in ECO-R1.1(i).
- g. The clearance thresholds in ECO-R2.1(a) and (b) are amended as follows:
  - i. “a. It does not exceed ~~1,000~~500m<sup>2</sup> per site in any calendar year in the Māori purpose zone, General rural zone, and Rural lifestyle zone; or
  - ii. b. It does not exceed ~~500~~250m<sup>2</sup> per site in any calendar year in all other zones”.
- h. The requirement to include an ecological assessment in ECO-R2.2 is deleted and a new matter of discretion requiring consideration of the criteria in Appendix 5 of the RPS (Areas of significant indigenous vegetation and significant habitats of indigenous fauna) is inserted into ECO-R2.3.
- i. The “gavel” notation identifying rules with immediate legal effect under section 86B(3) of the RMA is applied to ECO-R1 and ECO-R2 as a Schedule 1, clause 16 amendment to address a minor error.

## 9. Topic 7: Definitions

### 9.1 Introduction

197. The definitions of particular relevance to the ECO Chapter, as notified in the PDP, are as follows:

Indigenous biodiversity

*means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.*

Indigenous vegetation

*means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.*

Vegetation clearance

*in relation to indigenous vegetation, includes the pruning, trimming, clearance and removal of any indigenous vegetation.*

---

## 9.2 Analysis

### 9.2.1 New definitions

198. Submitters request a number of new definitions directly related to the ECO Chapter as follows:

- a. New definitions for “significant indigenous vegetation” (which needs quantification or threshold guidance), “habitat”, “natural wetland” and “duneland” (Madara Vilde [125.9]).
- b. “Improved pasture” and “maintenance of improved pasture” to clarify rules for native vegetation clearance and to match the definition included in the NPS-IB (NZAA [146.8, 146.9]).
- c. “Biodiversity compensation” and “biodiversity offset” to align with the NPS-IB definitions, as well the inclusion of associated appendices or schedules that include the principles for biodiversity compensation and offsetting found in the NPS-IB (DOC [304.3 and 304.5]).
- d. “Biosecurity reasons” and “biosecurity works” to provide more context for interpreting ECO-P4 (Fish & Game [267.2]).
- e. “Ecological district”, “ecological integrity”, “ecosystem”, “effects management hierarchy” and “threatened or at risk” to align with the NPS-IB definitions (DOC [304.11, 304.12, 304.15, 304.16, 304.33]). J & C Hawley [272.35, 272.37] also request definitions for “ecosystem” and “eco-sourcing”.
- f. “Ecological site” to align with the wording used in Appendix 5 of the RPS (DOC [304.13]).
- g. “Ecological unit”, with the requested wording being “any combination of indigenous vegetation types (or suite of interrelated types) plus the landform they occur on. The Ecological Unit may include exotic vegetation types where they support indigenous fauna”(DOC [304.14])
- h. “Intrinsic values” to align with the part of the definition in Part 2 of the RMA that relates to the intrinsic values of ecosystems (DOC [304.24]).
- i. “Area of significant indigenous vegetation and/or significant habitats of indigenous fauna”, with the requested wording being “Any area in the Kaipara district that meets criteria in Appendix 5 of the Northland Regional Policy Statement 2016” plus the inclusion of Appendix 5 as a new appendix in the PDP (DOC [304.32]).

- j. “Pest/Pest Organism”, with the requested wording as follows: “These include any unwanted living organism including micro-organisms, pest agents, plants, animals, and marine pests and any genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity) that may affect plants, animals, or raw primary produce; and
- i. Includes any entity declared to be a pest in the northland Regional Pest Management Strategies or otherwise by Northland Regional Council for the purposes of the Biosecurity Act 1993;
  - ii. Does not include any human beings; or living organism which affects only human beings; or any living organism declared not to be a pest for the purposes of the Biosecurity Act.” (DOC [304.30])

199. With respect to the requested new definitions:

- a. I note that the terms “significant indigenous vegetation”, “habitat”, “natural wetland” and “duneland” are used together in the context of the subdivision rules for environmental benefit subdivisions in the Subdivision chapter, which I presume to be the context in which Ms Vilde requests definitions. For an area to be considered as one of these terms, the area must be assessed by a suitably qualified person as satisfying at least one of the criteria in Appendix 5 of the RPS. As such, it is the ecological assessment that determines what constitutes either “significant indigenous vegetation”, “habitat”, “natural wetland” or “duneland” and therefore, in my view, PDP definitions for these terms are not required. I note that the term “significant indigenous vegetation” is terminology from section 6(c) of the RMA and it is appropriate that this is identified and assessed through ecological assessments. I also note that “wetland” is already defined in the PDP and is a National Planning Standards definition and “natural inland wetland” is defined in the NPS-FM.
- b. The terms “improved pasture” and “maintenance of improved pasture” are not currently used in the PDP and are used in the NPS-IB in the context of SNAs. For the reasons outlined in Topic 1 and Topic 6 above, I am recommending that the SNA related provisions in the NPS-IB are not given effect to through the PDP at this time and the same reasoning and recommendation applies to definitions that relate to those provisions. As such, in my view, definitions for the terms requested by NZAA are not required in the PDP.
- c. The terms “biodiversity compensation”, “biodiversity offset” and “effects management hierarchy” from the NPS-IB are all closely related and primarily relate to the SNA

provisions to manage adverse effects on SNAs (e.g. clause 3.10). For the reasons set out in Topic 1 above, I am recommending that the SNA related provisions in the NPS-IB are not given effect to through the PDP as these rely on SNA mapping (which has been paused). I expect that these definitions may be superseded in future iterations of the NPS-IB or alternative national instruments for the new system. As such, definitions for these terms, as requested by DOC, are not required in my view.

- d. The term “biodiversity reasons” is not used in the ECO Chapter and I am not recommending using this term. The term “biosecurity works” is used in ECO-P4, however I disagree that this term needs additional clarification in order for its meaning to be understood. I note that I am recommending a direct reference to the Biosecurity Act 1993 in ECO-R1, which provides more specific context for what biosecurity works mean in terms of permitted activities. As such, I do not recommend definitions for either of these terms.
- e. The term “ecological district” is used in the definition of “indigenous vegetation” and in the ecological assessment requirements of the Mangawhai Hills Special Purpose Zone. The term “ecosystem” is used in the definitions of “green infrastructure” and “wetland” but is not used in any PDP provision. In my view, the use of these terms in these provisions does not justify the inclusion of the equivalent NPS-IB definition in the PDP, as requested by DOC and J & C Hawley.
- f. The term “eco-sourcing” is used once in the context of the Estuary Estates (Mangawhai Central) Special Purpose Zone assessment criteria and I am not recommending that this term be used in the ECO Chapter. As such, I do not recommend that this term is defined in the PDP, as requested by J&C Hawley.
- g. The term “ecological integrity” is used once in the Overview text of the ECO Chapter. As this is a non-statutory part of the chapter, this does not justify the need to include the NPS-IB definition of “ecological integrity” in the PDP, as requested by DOC.
- h. The phrase “Threatened and At-Risk indigenous species” is used in ECO-P1 and ECO-P2 and there is an NPS-IB definition for “Threatened or At Risk, and Threatened or At Risk (declining)”. However, I do not consider a definition is necessary as these categories are based on the NZ Threat Classification System and can be interpreted without an additional definition in the PDP.
- i. The terms “ecological site” and “ecological unit” are not currently used in the PDP and I am not recommending that they be used in the ECO Chapter. As such, definitions for these terms in the PDP, as requested by DOC, are not required in my view.

- j. The term “intrinsic values” in the context of ecosystems is used once in the Estuary Estates (Mangawhai Central) Special Purpose Zone policies and I am not recommending that this term be used in the ECO Chapter. As such, I do not recommend that this term is defined in the PDP as requested by DOC.
- k. While I am recommending amendments that specifically reference Appendix 5 of the RPS (as set out in Topic 6 above), I do not consider that including Appendix 5 as a separate appendix in the PDP is necessary. Similarly, while an ecological assessment using the Appendix 5 criteria is an essential part of identifying “area of significant indigenous vegetation and/or significant habitats of indigenous fauna”, this is wording directly from section 6(c) of the RMA and, in my view, should not solely be defined by the RPS Appendix 5 criteria as this could be superseded. As such, I do not agree with the request from DOC for a definition of “area of significant indigenous vegetation and/or significant habitats of indigenous fauna” or the inclusion of Appendix 5 of the RPS in the PDP.
- l. The terms “pest” is used in the ECO Chapter but I do not consider that it needs to be defined as can be interpreted by reference to the relevant pest management plan or by its ordinary meaning.

#### 9.2.2 Definitions of “indigenous biodiversity” and “indigenous vegetation”

200. DOC [304.22, 304.23] requests that the definitions of “indigenous biodiversity” and “indigenous vegetation” be retained as notified. Federated Farmers [136.16, 136.17] also support these definitions, but request the addition of the phrase “Has the same meaning as Section 1.6 of the NPS-IB as set out below” at the beginning of each definition to acknowledge its source and future proof it should the NPS-IB change in the future.
201. I agree with DOC that the definitions of “indigenous biodiversity” and “indigenous vegetation” should be retained as notified as they are definitions that align with the NPS-IB. However, I disagree with Federated Farmers that a direct cross reference to Section 1.6 of the NPS-IB is appropriate as it does not future proof either definition – a future change to the definitions in Section 1.6 of the NPS-IB would not automatically update the definition wording in the PDP, it would simply create an inconsistency between the NPS-IB and the PDP.

#### 9.2.3 Definition of “vegetation clearance”

202. Federated Farmers [136.28] requests that the definition of “vegetation clearance” be retained as notified.

203. Forest & Bird [149.2] request that the definition “vegetation clearance” be amended to “vegetation alteration and clearance” to capture all of the impacts on indigenous vegetation that can result in a loss of value and to be clear that the scope of the definition is broader than just complete removal of vegetation. Forest & Bird also request amendments to the definition wording as follows: “In relation to indigenous vegetation, ~~includes~~ means the pruning, trimming, clearance ~~and removal, damage or destruction~~ of any indigenous vegetation”. Finally, Forest & Bird request that all references to “vegetation clearance” in the PDP are replaced with “vegetation alteration and clearance”.
204. DOC [304.34] requests a more extensive change to the definition of “vegetation clearance” so that the scope of the definition is widened to include exotic vegetation constituting a significant habitat for indigenous fauna. DOC also request that a list of activities that typically result in vegetation clearance be included in the definition as follows:

~~“In relation to any indigenous vegetation, includes the pruning, trimming, clearance and removal of any indigenous vegetation, and/or exotic vegetation that constitutes significant habitat for indigenous fauna. It includes, but is not limited to:~~

1. Cutting;
2. Crushing;
3. Cultivation;
4. Soil disturbance including direct drilling;
5. Application of chemicals including herbicide;
6. Burning;
7. The deliberate application of water, fertiliser or oversowing;
8. The drainage of wetlands or lakes;
9. Mob-stocking; and
10. Applying seed of exotic pasture.

And also includes any of the above activities where it may cause the deliberate alteration or hydrological functions that support indigenous vegetation and/or exotic vegetation that constitutes significant habitat for indigenous fauna.

205. While I agree with Forest & Bird that “indigenous vegetation alteration and clearance” may more accurately describe what the definition includes (e.g. pruning and trimming), it is unnecessary to

amend the title of the definition in my view. Vegetation clearance is a term used in many chapters in the PDP and amending the definition to be more technically correct without changing intent would serve limited value. However, I agree with the addition of “damage” within the definition of vegetation clearance and recommend it is amended accordingly.

206. I do not agree with the extensive amendments to the definition of vegetation clearance requested by DOC. In my view, the suggested wording is overly complex and would likely be difficult to interpret and administer (e.g. determining whether the actions taken are ‘deliberate’). Further, there is not sufficient reasoning in the DOC submission to support such as extensive change to the definition.

### 9.3 Recommendations

207. I recommend that the definition of “vegetation clearance” be amended as follows: In relation to indigenous vegetation, includes the pruning, trimming, clearance, damage, and removal of any indigenous vegetation”.