

## Section 42A Report

# Part 1 Introduction and general provisions, (excluding Definitions, Abbreviations and Glossary)

Prepared for the

Proposed Kaipara District Plan

Report prepared by: **Betty Connolly**

**15 January 2026**

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

<b>Submission Number</b>	<b>Submitter</b>
122	Amanda (Mandy) Harris
141	Te Roroa Whatu Ora Trust & Te Roroa Manawhenua Trust
149	Royal Forest and Bird Protection Society of New Zealand Incorporated
231	S Cullen
245	C & R Williams
253	McRobbie Dowling Limited
256	P Ryan
260	The Rise Limited
263	Daytona Trust
277	Mangawhai Hills Limited
281	Moonlight Heights Limited
282	Murphy Property Development Limited
284	New Zealand Defence Force
289	Tappenden Holdings Limited
292	Transpower
293	Vermont Street Partners Limited
300	Bream Tail Association Incorporated
301	Channel Terminal Services Limited
304	Director General of Conservation
331	Northland Holdings 2016 Limited
332	Northland Regional Council
FS35	Bream Tail Residents Association
FS42	Chorus, Spark, Fortysouth, OneNZ & Connexa
FS45	Director General of Conservation
FS47	Federated Farmers of New Zealand
FS93	Royal Forest and Bird Protection Society of New Zealand Incorporated
FS100	Transpower

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APPENDIX A: RECOMMENDATIONS FOR EACH SUBMISSION POINT

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## List of abbreviations used in this report

<b>Abbreviation</b>	<b>Term</b>
<b>KDC</b>	Kaipara District Council
<b>PDP</b>	Proposed District Plan
<b>ODP</b>	Operative District Plan
<b>RMA</b>	Resource Management Act 1991
<b>NPS-IB</b>	National Policy Statement on Indigenous Biodiversity
<b>SNA</b>	Significant Natural Areas
<b>Forest &amp; Bird</b>	Royal Forest and Bird Protection Society of NZ Inc.
<b>TRWO&amp;TRM</b>	Te Roroa Whatu Ora Trust & Te Roroa Manawhenua Trust
<b>DOC</b>	Department of Conservation
<b>BTRA</b>	Bream Tail Residents Association Inc.
<b>NRC</b>	Northland Regional Council
<b>NZDF</b>	New Zealand Defence Force
<b>CTS</b>	Chanel Terminal Services Ltd
<b>Transpower</b>	Transpower New Zealand
<b>RPS</b>	Northland Regional Policy Statement

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## Executive Summary

- i. The Proposed Kaipara District Plan (**PDP**) was publicly notified in April 2025. The PDP is divided into four parts in accordance with the National Planning Standards as follows:
  - a. Part 1 - Introduction and general provisions
  - b. Part 2 - District-wide Matters
  - c. Part 3 - Area-specific matters
  - d. Part 4 - Schedules.

This report is on Part 1 - Introduction and general provisions. While the Interpretation section of Part 1 includes Definitions, Abbreviations and Glossary these have been excluded from this report, with submissions to these sections being dealt with in other hearings.

- ii. Within Part 1 there are five sections:
  - a. Introduction
  - b. How the Plan Works
  - c. Interpretation
  - d. National Direction Instruments
  - e. Tangata Whenua / Mana Whenua
- iii. 21 original submitters (with 36 individual submission points) and 6 further submitters (with 9 individual further submission points) made submissions on the Part 1 - Introduction and general provisions.
- iv. The majority of submissions seek amendments for clarification on text. The wording in the section on Relationship between Spatial Layers attracted the most submissions seeking clarity on the application of provisions for split zoned sites, references to specific areas, general wording and drawing attention to specific controls applicable for Infrastructure corridors such as the National Grid and Gas or Petroleum Pipelines.
- v. My recommendations for Part 1 – Introduction and general provisions are summarised as follows:
  - a. Additional text to Description of district to include an overview of the environment and landscape of the Kaipara area – an aspect which is currently missing;

- b. Deletion of the section Additional Matters of control and matters of discretion as the matters referred to in this section already exists in the Resource Management Act;
  - c. Additional text added under the section that identifies zones used in the district to explain that there is a zone for roads, railways and waterbodies that is consistent with the adjoining zone and additional text included in the overview of the Transport chapter for consistency and clarity.
  - d. Additional text added to the list of overlays to identify infrastructure corridors as an overlay and text under the list of overlays to clarify that there are specific controls which apply to these corridors in the Infrastructure chapter of the PDP;
  - e. Additional overlays added to the list of Spatial Layers currently not noted in the list to reflect the overlays shown on the maps of the PDP;
  - f. Amendment to text in section Determining the relationship between rules for different spatial layers that:
    - i. provide clarity how the plan deals with sites with split zones;
    - ii. amendments to avoid interpretation of the use of the word 'stricter' and replace with "restrictive" to better reflect the relationship between activity statuses.;
  - g. Amendments to the list of National Direction Documents in the table under National Direction Instruments to comply with requirements under Clause 17(c)(a) of the National Policy Statements and clarify the date of when the documents were reviewed.
- vi. If the Panel considers there is sufficient scope, additional overlays are recommended to be included in definition of "Overlay" to correct omissions.

## 1. Introduction

### 1.1 Qualifications and Experience

1. My name is Betty Marguerite Connolly. I am a part time/casual Planner employed by Kaipara District Council (**KDC**) to assist with the Proposed Kaipara District Plan (**PDP**). My previous involvement with the PDP has been helping in preparing both the draft and notified PDP. I have been involved in researching and drafting topics such as Historic Heritage, Notable Trees, Sites and Areas of Significance to Māori, Light and Hospital Special Purpose Zone.
2. I hold the degree of Bachelor of Social Sciences with Honours from the University of Waikato.
3. I have over 25 years' experience in planning working at Waikato District Council as a Planner/Senior Planner in the Resource Management area of Council. In those positions I participated in notifying and undertaking all processes required for two Waikato district plan reviews.
4. I was also employed in the Strategic Planning team at Waikato District Council and was involved with several plan changes as well as community development work in placemaking and community initiatives around the district.
5. I have been supporting the policy planning team at KDC since 2021.

### 1.2 Preparation of the report

6. I am authorised by KDC to prepare this report under section 42A of the Resource Management Act (**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 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 any changes to the PDP that I consider to be appropriate having considered the statutory requirements.
7. 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.
8. 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

9. 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

10. I confirm that I have no real or perceived conflict of interest.

## 2. Scope of Report

### 2.1 Matters addressed by this report

11. The scope of this report is to consider the submissions and further submissions made in respect of the provisions in the Part 1 – Introduction and general provisions of the PDP and make recommendations. This report excludes Definitions, Abbreviations and Glossary as these will be dealt with in hearings more relevant to these topics.

### 2.2 Overview of the topic / section

12. As notified, the Introduction and general provisions sections cover topics identified in the National Planning Standards as Part 1 and include:
- a. Introduction – Foreword, Contents, Purpose and Description of District;
  - b. How the Plan Works – Statutory Context, General Approach, Cross Boundary Matters, Relationship with Spatial Layers;
  - c. Interpretation – Definitions, Abbreviations and Glossary. These are excluded from this report;
  - d. National Direction Instruments – National Policy Statements and New Zealand Coastal Policy Statement, National Environmental Standards and Regulations; and
  - e. Tangata Whenua / Mana Whenua.

## 2.3 Statutory Context

13. 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.
14. 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 direction instruments are prepared, standardised plan content developed and new plans prepared (including Regional Spatial Plans, Natural Environment Plans and Land Use Plans).
15. The Operative Kaipara District Plan (**ODP**) is thirteen years old and drafted in a manner that is misaligned with both the National Planning Standards 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 Schedule 1 hearing process for the PDP is an important part of modernising the district plan and achieving clear and consistent provisions that will better integrate into the new planning system.
16. Once the new legislation is passed, the direction of the new legislation will be considered when making recommendations and alignment will be sought with this direction but only where it is within the scope of submissions to do so. As the new legislation is not yet in force and the content is not finalised, this section 42A report does not consider the direction contained in the new bills. 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 [at 35].
17. On 18 December 2025, the Government announced that 10 new or amended national direction instruments under the RMA will come into effect on 15 January 2026, which is the day this report is published. These higher order documents will be considered in full by each s42A report writer subsequent to this hearing and should any amendments need to be made to the Part 1 section these can be recommended at that time.

18. All the current National Direction instruments and the Regional Policy Statement for Northland (**RPS**) have been considered when drafting this PDP and when providing the context for the introduction and general provisions.

## 2.4 Procedural matters

19. No submitter, prehearing or Clause 8AA meetings have been undertaken on this section. There has been no further consultation undertaken since notification.

## 2.5 Organisation of the report

20. This report follows the structure and order of the Part 1 topics as shown in the PDP. Within each of these sections, submissions are arranged by submitter number. It should be noted by the Panel that Part 1 – Introduction and General Provisions is explanatory text only in respect of the outline of the Kaipara District and the PDP, explanation of National guidance documents and discussion in regard to statutory areas of Tangata Whenua / Mana Whenua. There are no provisions associated with this Part of the PDP.

21. The report is therefore structured around the following sections:

- a. Introduction – Additional information in regard to the district and indigenous biodiversity
- b. How the plan works – Clarification
- c. National Direction instruments – Updating of national direction instruments
- d. Tangata Whenua / Mana Whenua – Additional information for Tangata Whenua

### 2.5.1 Submissions and further submissions

22. 21 submissions containing 36 submission points and 6 further submissions were received. The summary of submissions and further submissions pertaining to this section 42A report, and my recommendation for each are attached as Appendix A. The original submission and further submission documents can be found on KDC's website.

23. While all submitters have been read and considered in the summary of 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

24. Where I have recommended amending provisions as a result of considering the submissions and further submissions, these are contained as tracked changes in Appendix B. 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.
25. There are no changes to maps.

## 2.5.3 Section 32AA evaluation report

26. Given that the Part 1 of the PDP does not contain provisions (other than definitions) a section 32 evaluation report was not required, and a section 32AA will similarly not be required for any further amendments I recommend.

# 3. Topic 1: Introduction section of the PDP

## 3.1 Introduction

27. The Introduction sections of the PDP containing Foreword, Purpose and Description of the District received one submission each. No submissions were received in respect to the Contents section.
28. The submissions on each section were identical in wording and by the same submitter who considered that these 3 sections should include:
  - a. A description of the Kaipara District's natural values, and
  - b. A clear expression of the role within the PDP in enabling appropriate use and development while protecting the natural environment.

## 3.2 Analysis

29. The submissions from Royal Forest and Bird Protection Society of NZ Inc. (**Forest and Bird**) were as follows:
  - a. Foreword – [149.134], Transpower [FS100.34];
  - b. Purpose – [149.1], Director-General of Conservation [FS45.25] and Transpower [FS100.13]; and
  - c. Description of the District – [149.135], Transpower [FS100.35].

30. The three submissions seek the same outcome – that is, inclusion of a description of the Kaipara Districts' natural values in these sections. The submissions also consider that the Introductory sections should align with the purpose of the RMA and National Direction instruments by recognising the natural values of the district and requiring early protection to enable a more balanced and integrated approach to development.
31. I have considered the natural environment of the District in the context of these three sections and agree that these features are not recognised in the introductory sections. However, I do not agree that this recognition is appropriate in the Foreword and Purpose sections for the reasons below:
- a. The Foreword section within Part 1 contains the Mayor's introduction to the PDP. This section outlines briefly the process of developing the PDP and the Council's expectations for the future. I do not consider that the Foreword is an appropriate section to include information as sought by Forest and Bird [149.134].
  - b. The Purpose section within Part 1 is a brief explanation as to what the PDP is about. This section refers to the requirements under the RMA for Council to produce a District Plan and what the plan covers. I do not consider that the Purpose is an appropriate section to include the information as sought by Forest and Bird [149.1].
32. The Description of the District section is an outline of the Kaipara District that describes the attributes which make up the District such as the physical location which is bounded by two harbours, the towns and settlements, the rural production areas and climate. On reading this section in more detail I agree with the Forest and Bird submissions [149.1,149.134 and 149.135] that there is a lack of recognition of the natural values found in the District such as landscapes, indigenous biodiversity and other elements that should be acknowledged. I consider that incorporating further wording in this section as sought by [149.135] to describe these natural values, will offer a more comprehensive and clear explanation for the reader of the natural environment of Kaipara district.
33. In regard to the second part of this submission, Forest and Bird consider there should be more recognition and promotion of sustainable management of natural and physical resources in this section. I have reviewed the wording of the three sections under Introduction and note the following words in Purpose:

*District plans aim to sustainably manage land use, subdivision, and development within the district. A district plan identifies where activities can take place, how land can be developed, and what natural and cultural features should be protected.*

I consider that this wording adequately describes the purpose of sustainable management. Therefore, I do not consider that further words are needed in this section.

### 3.3 Recommendations

34. I recommend that the following text is inserted at the end of the 2<sup>nd</sup> paragraph of Description of the District as follows:

...The Northern Wairoa River bisects the district, which, along with its tributaries, flows into the northern end of the Kaipara Harbour draining a catchment area of 3650 square kilometres. The Kaipara District has a diverse range of natural landscapes, including exposed coasts, sheltered estuaries, rivers, steep bush clad hills, riverside flats and rolling farmland. Natural features within the District include the broad Northern Wairoa River in the east, the narrow, shallow Kaihu River valley in the northeast, the substantial Ruawai Plains ('Ruawai Flats') in the southeast, the long, narrow, hilly Pouto Peninsula in the south, and the long sandy coastline in the west as well as Maunganui Bluff and Mt Tutamoe, the second highest peak in Northland. Dune lakes feature at Kai Iwi and Poutu and with a shoreline of 3500km, the Kaipara Harbour is the largest in New Zealand. Ecological features include kanuka/manuka shrubland, coastal flaxland, freshwater and estuarine wetlands, mangroves, and substantial areas of indigenous forests. Collectively, these varied landscapes and features contribute to the character and identity of the Kaipara District.

## 4. Topic 2: How the Plan Works

### 4.1 Introduction

35. The "How the Plan Works" section contains four subsections:
- a. Statutory Context
  - b. General Approach
  - c. Cross Boundary Matters
  - d. Relationship Between Spatial Layers
36. The Statutory Context section received one submission from the Director-General of Conservation (**DOC**) [304.1] and further submissions from Forest and Bird [FS93.113] and Federated Farmers [47.105]. The submission has two parts, the first seeking that the report entitled 'Significant Indigenous Vegetation and Habitats of Kaipara District, Northland – Volume 1' is recorded as being considered in development of the PDP. The second part is seeking to add

objectives, policies and rules which recognise and promote the protection of significant indigenous vegetation and significant habitats of indigenous fauna based on this document.

37. The General Approach section received six submissions. The submissions from Daytona Trust [263.1], BRTA [FS35.51], Tappenden Holdings Ltd [289.1], BTRA [300.1] and Northland Regional Council (**NRC**) [332.19] are either seeking deletion of the Additional Matters of control and matters of discretion or clarifying specific matters.
38. The submission from BTRA [300.3] (with a further submission supporting from the telecommunication companies [FS42.63]) considers that the PDP should set out how to apply the correct policy and rule settings to roads, railways and rivers within the district, including formed and paper roads.
39. The Cross Boundary Matters received two submissions, one from New Zealand Defence Force (**NZDF**) [284.4] and Channel Terminal Services Limited (**CTS**) [301.22]. Both submissions seek to retain provisions that recognise effects occur across boundaries. CTS also seeks amendments to provide for a collaborative and consistent approach to the management of infrastructure that crosses territorial boundaries.
40. The Relationship between Spatial Layers section of Part 1 received 20 submissions (with 1 further submission) which seek clarity on:
  - a. provisions that apply to sites with split zones;
  - b. references to precincts, development areas and the Mangawhai/Hakaru Managed Growth Area;
  - c. general wording; and
  - d. infrastructure corridors.

## 4.2 Analysis

### Statutory Context

41. DOC [304.1] (with further submissions supporting and opposing from Forest and Bird [FS93.113] and Federated Farmers [FS47.105]) seeks reference to the Wildland consultant report entitled 'Significant Indigenous Vegetation and Habitats of Kaipara District, Northland – Volume 1'. Section 6(c) of the RMA requires recognising and providing for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance. The National Policy Statement on Indigenous Biodiversity (**NPS-IB**) requires identification of significant natural areas (**SNAs**). As part of the groundwork for identifying SNAs, KDC along with Far North District and Whangarei District Councils, appointed Wildland consultants to map each district's SNAs as the first stage of a three stage project. As noted by

DOC in its submission, Stage 1 results and the proposed further progress were presented in a Council briefing on 6 May 2020. At the time of that briefing Central Government was still developing provisions for biodiversity protection under the NPS-IB, and Council paused any further SNA work until the NPS-IB was finalised. As noted in the s32 evaluation report for Ecosystems and Indigenous Biodiversity, changes were made to the NPS-IB and RMA in October 2024 which meant the NPS-IB direction to map SNAs was suspended until October 2027. For this reason, Council has decided not to give effect to any provisions in the NPS-IB in the PDP as its intent is to undertake a plan change later. This means that the report and mapping undertaken by Wildland consultants has not been considered in the PDP review, and therefore it is not appropriate to reference the report. If SNA's are recommended to be included in the PDP through consideration of submissions on this matter later this year, I will revisit my recommendation.

42. Regarding the second part of the submission which requests the addition of objectives, policies and rules based on the Wildlands document, I note that there are provisions within the Ecosystems and Indigenous Vegetation section that promote protection of these sensitive environments. However the specifics of this submission point will be considered further in the Ecosystems and Indigenous Biodiversity hearing at a later hearing. The submitter may wish to review the s32 report on this topic for clarification.

General Approach

43. Additional matters of control and matters of discretion are listed at the end of the General Approach section. The additional matters of control and matters of discretion are a summary of Section 108 and other sections of the RMA. Reviews of other district plans show that this additional information is not generally included. The matters included in the Additional matters of control and matters of discretion are listed in the various sections of the RMA and apply regardless of whether they are included in the PDP or not as illustrated below in Table 1.

Additional matters of control and matters of discretion listed in the PDP	Equivalent requirement in the RMA
1. Bonds or covenants or both, to ensure performance or compliance with any conditions imposed, including provision for variation, cancellation or renewal of covenants;	s108(2)(b)
2. Administrative charges to be paid to the Council in respect of processing applications, administration, monitoring and supervision of	s36

Additional matters of control and matters of discretion listed in the PDP	Equivalent requirement in the RMA
resource consents, as set out in the Fees and Charges Schedule of the Long Term Plan;	
3. A requirement that the holder of a consent supply information relating to the exercise of the consent, as detailed in s108(3) and (4) of the Resource Management Act;	s108(3) and (4)
4. Financial contributions, subject to the Financial Contributions rules;	s108(2)a)
5. Works or services to ensure the protection, restoration or enhancement of any natural or physical resource, including the creation, extension or upgrading of services and systems, planting or replanting, or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects;	s108(2)c),
6. The duration of a resource consent under s123 of the Resource Management Act;	s123
7. Lapsing of a resource consent under s125 of the Resource Management Act;	s125
8. Change and cancellation of a consent under s126 and s127 of the Resource Management Act;	s126 and 127
9. Notice that some or all conditions may be reviewed at some time in the future under s128 of the Resource Management Act;	s128
10. Whether any land use or subdivision consent should attach to the land to which it relates and be enjoyed by the owners and occupiers for the time being under s134 of the Resource Management Act;	s134

Additional matters of control and matters of discretion listed in the PDP	Equivalent requirement in the RMA
11. The matters on which conditions can be imposed on subdivision consents under s220 of the Resource Management Act; and	s220
12. Consent notices to secure compliance with continuing conditions under s221 of the Resource Management Act.	s221

Table 1: Alignment of the PDP Additional matters of control and matters of discretion against the RMA

44. I agree with the submissions from Daytona Trust [263.1], BTRA [F35.51], Tappenden Holdings Ltd [289.1] and BTRA [300.1] that this section is redundant. I therefore recommend that the section of Additional Matters of Control and Matters of Discretion be deleted. NRC [332.19] requested further clarification on point 5, but given my recommendation to delete it, no further clarification is required.
45. BTRA [300.3] and Chorus, Spark, Fortysouth, OneNZ & Connexa [FS42.63] consider that the PDP should set out how to apply the correct policy and rule settings to roads, railways and rivers within the district, including formed and paper roads within the General Approach section. In the Transport section of the PDP, the following guidance is provided as to the management of roads:
- The approach for the management of roads in this Plan is as follows:*
- a. *The roads are not zoned in the District Plan maps.*
  - b. *Any zoning (including precinct provisions) ceases to have effect from the time the land is vested or dedicated as a road.*
  - c. *In the case of road stoppings, the zoning reverts to that of the adjoining land at the time when the road is stopped. Where there are two different zones, the adjacent zone extends to the centre line of the former road.*
46. This is not replicated in the General Approach section. My research of other district plans shows that the zoning of roads, railways and rivers is dealt with in different ways. Some do not refer to the zoning of roads or waterbodies at all, while others such as Selwyn District Council and Waimakariri District Plan explain that the zone of roads and railways matches the adjacent zone. I agree with BTRA that there should be wording in the introductory section of the PDP to explain how roads, railways and rivers are zoned. However I do not agree with BTRA that this wording

should be included in the General Approach section; rather, that this is better located in the Relationship Between Spatial Layers section under the section that identifies the Zones used within the PDP. Under the Zones section there is an explanation of how activities within different zones are subject to different zone provisions and I note specific wording as follows:

*All land in the district is in a zone except roads, which are not zoned.*

47. Given the wording above already refers to the zoning of roads in the district, I recommend that the wording be amended to reflect that there is a zone for roads, railways and rivers that is consistent with the zoning of the adjoining property. Where the zoning of the land that adjoins one side of the road corridor or rail corridor is different to that of the land that adjoins the other side of the road corridor or rail corridor, each zoning will apply up to the centreline of the road or rail corridor. The overview of the Transport chapter will also need to be amended accordingly.
48. Roads are managed by the Transport chapter which means that the Transport provisions will apply regardless of the underlying zone. The application of a zone makes it more straightforward for newly vested roads in that no plan change is needed to update the zoning. Similarly, the jurisdiction of KDC for rivers is restricted to the surface of waterbodies. The PDP does not contain a chapter for the surface of waterbodies, so any activities on the surface of waterbodies would be managed by the underlying zone. The railway line is designated by KiwiRail and therefore the underlying zone carries less importance.

#### Cross Boundary Matters

49. NZDF [284.4] and CTS [301.22] both seek to retain the provisions that recognise effects occur across boundaries. Given that there were no opposing submissions, I recommend these points are accepted.
50. CTS also seeks to amend the PDP to provide for a collaborative and consistent approach to the management of infrastructure that crosses territorial boundaries. Infrastructure such as the Ruakaka to Auckland Pipeline crosses territorial boundaries, and CTS considers that a co-ordinated approach to management of the pipeline and landuses / activities around the pipeline is warranted. This part of the submission point is more appropriately addressed in the Infrastructure hearing and thus is deferred to that later part of the hearing process.

#### Relationship between spatial layers

##### Additional section:

51. Transpower New Zealand Ltd (**Transpower**) [292.3] seek additional wording in this section to clarify for plan users that there are specific controls applicable for infrastructure corridors such as the National Grid and Gas or Petroleum Pipelines, and where these can be found in the Plan. Transpower sees this as an additional section, located below Overlays and before Specific

controls. I agree with Transpower that the wording as suggested or similar would provide clarity for users or other utility operators as to where provisions in regard to activities within infrastructure corridors could be found, however I do not agree with Transpower that this requires a separate section. In my opinion the infrastructure corridors are effectively an overlay and for this reason an additional point (9) can be added to the list of overlays, with wording added to the explanation.

52. In considering this submission point, I note that the Overlay section does not include all overlays that appear in the PDP or correspond with what is defined as an Overlay in the Definitions. For example, the Maungatūroto Dairy Factory Noise Sensitive Area and Mangawhai Hakaru Managed Growth Area are included in the definition of “Overlay” but not recorded in this section. The State Highway or Rail Corridor Noise Control Boundary, Maungaturoto Dairy Factory Wastewater Pipeline, Airport Runway, Airport Height Restrictions – Transitional Surface and Airport Height Restrictions – Approach and Take-Off Surface are not listed either. While there may not be specific scope provided by submissions, I recommend the Panel update both the definition of “Overlay” as well as the Relationship between spatial layers section for consistency.

Spatial Layers:

Split zones

53. S Cullen [231.9], C & R Williamson [245.1], McRobbie Dowling Limited [253.4], P Ryan [256.8], The Rise Ltd [260.3], Mangawhai Hills Ltd [277.2], Moonlight Heights Ltd [281.2], Murphy Property Development Ltd [282.14], seek clarity in direction on how provisions apply to split zoned sites. The submitters consider that the wording as notified does not provide any direction for split zoned sites. The wording as notified is as follows:

*Activities within different zones are subject to different zone provisions, including objectives, policies, rules and standards. Activities are subject to more permissive or restrictive controls, depending on the purpose of the zone in which they are located.*

54. I have reviewed the wording, and note that while this refers to specific zones having specific provisions the intent of the wording may not be clear. I consider that this could be worded better to be clear in how these provisions are implemented. Therefore, I recommend that an amendment is made to the wording for clarity.

Overlays

55. S Cullen [231.8], P Ryan [256.7], The Rise Ltd [260.2], Mangawhai Hills Ltd [277.1], Moonlight Heights Ltd [281.1], Murphy Property Development Ltd [282.13], Vermont Street Partners Ltd [293.9], Northland Holdings 2016 Ltd [331.1] seek amendments to the Spatial Layers section to include references to precincts, development areas or the proposed Mangawhai/Hakaru Managed Growth area.

56. It is correct that this within this section there is no mention of precincts or development areas. I am aware that hearings are still to come which will address the Mangawhai/Hakaru Managed Growth Area, as well as precincts and development areas. On principle I consider that the Mangawhai/Hakaru Managed Growth area is an overlay, and as noted above in paragraph 52 this should be listed as an overlay.
57. Precincts and development areas are special provisions that apply within a specified zone, and in the case of the PDP these are reflected in Special Purpose Zones or zone chapters. I consider that references to precincts / development areas are best described as co-existing with the zone to which they apply. Given that the submissions on the Mangawhai/Hakaru Managed Growth Area and the zones which include precincts and development areas are yet to be heard, I do not recommend any amendments at this time. I will revisit my recommendation to reflect any future changes to those areas, precincts and development areas accordingly.

Determining the relationship between rules for different spatial layers

58. Daytona Trust [263.2] BTRA [FS35.52], Tappenden Holdings Ltd [289.2], BTRA [300.2] all seek amendments to wording in the section Determining the relationship between rules for different spatial layers. These three submitters consider that the wording as notified '*Rules for one spatial layer may be stricter than rules in another spatial layer. The strictest rule will apply in these cases.*' is open to interpretation depending on the circumstances of the proposal with the use of the word 'stricter'. They consider that the wording should refer to the activity status of a proposal being determined on the basis of all rules which apply to avoid interpretation of the word 'stricter'. The text currently states:

*Rules for one spatial layer may stricter than rules in another spatial layer. The strictest rule will apply in these cases. For example, in the General rural zone, the permitted building height is 10m. However, if a site in the General rural zone is also in the High Natural Character Area, there is a more stringent rule in the HNCA that means the maximum permitted height is reduced to 5.5m. See General Approach chapter for Step-by-step process for identifying activity status.*

59. The concept that is trying to be expressed is that where there are conflicting rules on a particular matter (such as maximum height), the more restrictive will prevail. It appears that two different concepts are being addressed however:
- a. The phrase referred to by the submitters is referring to the situation where there are different *standards* for the same thing, e.g maximum height.
  - b. The submitters seem to be concerned about the concept of "bundling" of *activity status* which is addressed in Step 5 of General Approach where it states:

*Where an activity is subject to multiple rules of the Plan, unless expressly stated otherwise in the Plan, each of the rules apply and must be complied with.*

*If more than one rule applies to your activity and different activity statuses apply, the activity will adopt the highest activity status and will be assessed under that status. Generally, all aspects of an activity needing resource consent will be "bundled" together in a single application.*

60. Having considered the guidance of both paragraphs, I consider that the descriptions are generally appropriate. However I recommend that the word "strict" .

### 4.3 Recommendation

61. I recommend that the following text is deleted from the General Approach section:

#### **~~Additional matters of control and matters of discretion~~**

~~The following are additional matters over which control is reserved for all controlled activities, and to which discretion is restricted for all restricted discretionary activities and will also apply with respect to discretionary and non-complying activities. (These are stated here, instead of individual rules, to avoid repetition and improve rule readability.)~~

- ~~1. Bonds or covenants or both, to ensure performance or compliance with any conditions imposed, including provision for variation, cancellation or renewal of covenants;~~
- ~~2. Administrative charges to be paid to the Council in respect of processing applications, administration, monitoring and supervision of resource consents, as set out in the Fees and Charges Schedule of the Long Term Plan;~~
- ~~3. A requirement that the holder of a consent supply information relating to the exercise of the consent, as detailed in s108(3) and (4) of the Resource Management Act;~~
- ~~4. Financial contributions, subject to the Financial Contributions rules;~~
- ~~5. Works or services to ensure the protection, restoration or enhancement of any natural or physical resource, including the creation, extension or upgrading of services and systems, planting or replanting, or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects;~~
- ~~6. The duration of a resource consent under s123 of the Resource Management Act;~~
- ~~7. Lapsing of a resource consent under s125 of the Resource Management Act;~~
- ~~8. Change and cancellation of a consent under s126 and s127 of the Resource Management Act;~~

- ~~9. Notice that some or all conditions may be reviewed at some time in the future under s128 of the Resource Management Act;~~
- ~~10. Whether any land use or subdivision consent should attach to the land to which it relates and be enjoyed by the owners and occupiers for the time being under s134 of the Resource Management Act;~~
- ~~11. The matters on which conditions can be imposed on subdivision consents under s220 of the Resource Management Act; and~~
- ~~12. Consent notices to secure compliance with continuing conditions under s221 of the Resource Management Act.~~
62. I recommend that the following text is included in the Relationship Between Spatial Layers section after Specific controls and before Designations:
- Zoning of Roads, Railways and Rivers
- All public roads, including state highways, railways and rivers are zoned, although they are not coloured on the planning maps to avoid confusion. The zoning of the road, rail corridor and rivers will be the same zone as that of the adjoining land (as shown on the District Plan maps). Where the zoning of the land that adjoins one side of the road, railway or river is different to that of the land that adjoins the other side, then the zoning of the adjoining land shall apply up to the centreline of the road, railway or river.
63. I recommend the following amendment under the Spatial layer heading:
- All land in the district is in a zone ~~except roads, which are not zoned~~.
64. I recommend the following amendment to the Overview of the Transport Chapter:
- The approach for the management of roads in this Plan is as follows:
- a. The roads are not coloured as a zoned in the District Plan maps.
- b. The zoning of the road and rail corridor will be the same zone as that of the adjoining land (as shown on the District Plan maps). Where the zoning of the land that adjoins one side of the road or railway is different to that of the land that adjoins the other side, then the zoning of the adjoining land shall apply up to the centreline of the road or railway.
- ~~Any zoning (including precinct provisions) ceases to have effect from the time the land is vested or dedicated as a road.~~

- c. In the case of road stoppings, the zoning reverts to that of the adjoining land at the time when the road is stopped. Where there are two different zones, the adjacent zone extends to the centre line of the former road.
65. I recommend that the following text is added to the definition of “Overlay”:
8. The State Highway or Rail Corridor Noise Control Boundary
  9. Maungaturoto Dairy Factory Wastewater Pipeline
  10. Airport Runway, Airport Height Restrictions – Transitional Surface and Airport Height Restrictions – Approach and Take-Off Surface
  11. National Grid and Gas or Petroleum Pipelines
66. I recommend that the following additional overlays are added to the Relationship Between Spatial Layers – Overlays section:
9. The State Highway or Rail Corridor Noise Control Boundary
  10. Maungaturoto Dairy Factory Wastewater Pipeline and Maungatūroto Dairy Factory Noise Sensitive Area
  11. Airport Runway, Airport Height Restrictions – Transitional Surface and Airport Height Restrictions – Approach and Take-Off Surface
  11. National Grid and Gas or Petroleum Pipelines
  12. Mangawhai Hakaru Managed Growth Area
67. I recommend that the following text is added to the Relationship Between Spatial Layers section after the overlay descriptions and before Specific controls:
- ... Not all land is subject to an overlay. Some land is subject to two or more overlays.
- Activities within Infrastructure corridors - Structures, activities, earthworks and subdivision near the National Grid or the Gas or Petroleum Pipeline Corridor are addressed in the Infrastructure section.
68. I recommend that the following amendment is made to the text in the section Spatial Layers / Zones as follows:
- The zone determines the provisions that will apply to an activity ~~Activities within different zones are subject to different zone provisions~~, including objectives, policies, rules and standards. Activities are subject to more permissive or restrictive controls, depending on the purpose of the zone in which they are located. Where a site has more

than one zone applying to it, the provisions for each identified zone will apply to the relevant part of the site.

69. I recommend that the following amendment is made to the section Determining the relationship between rules for different spatial layers

Rules for one spatial layer may be stricter ~~more restrictive~~ than rules in another spatial layer. ~~The strictest rule will apply in these cases.~~ When conflict exists between rules, the most restrictive rule shall apply.

For example, ...

## 5. Topic 3: National Direction Instruments

### 5.1 Introduction

70. This section contains a list of the national policy statements and national environmental standards. One submission Forest and Bird [149.3] submitted on the table within this section.

### 5.2 Analysis

#### National Policy Statements and New Zealand Coastal Policy Statement

71. Forest and Bird [149.3] considers that the table as notified is not in the form required by the National Planning Standards. It considers that due to this, the extent to which the PDP has given effect to relevant national direction is not clear. I have reviewed the National Planning Standards and in particular Chapter 6. Introduction and General Provisions Standard, National direction instruments, clause 17c (pg 28) Table 9 which provides three options in respect of whether a policy statement has been reviewed and wording is as follows:

- a. For each national policy statement or New Zealand Coastal Policy Statement insert one of the following options in the second column:
  - i. The ['policy statement' or 'plan'] has been reviewed [insert any relevant review dates and references to relevant changes]
  - ii. This national policy statement does not apply to the ['policy statement' or 'plan']
  - iii. The ['policy statement' or 'plan'] has not yet been reviewed

72. The wording is explicit as to what is to be provided and I agree with Forest and Bird that the PDP does not adhere to the requirement as stated in clause 17c. The wording as notified is:

NPS Reviews

The following table lists relevant NPS and the NZCPS and indicates reviews undertaken for the Kaipara District Plan:

<i>Reference Document</i>	<i>Kaipara District Plan reviewed prior to notification?</i>
<i>National Policy Statement for Indigenous Biodiversity 2023</i>	Yes
<i>National Policy Statement for Highly Productive Land 2022</i>	Yes
<i>National Policy Statement on Freshwater Management 2020</i>	Yes
<i>National Policy Statement on Urban Development 2020</i>	Yes
<i>National Policy Statement on Renewable Electricity Generation 2011</i>	Yes
<i>National Policy Statement on Electricity Transmission 2008</i>	Yes
<i>New Zealand Coastal Policy Statement 2010</i>	Yes

73. As can be seen, the wording in the second column deviates from that prescribed under Clause 17(c) (a) i to iii. For this reason I recommend amending the wording within this table to comply with the requirements under Clause 17(c) (a) i of the National Planning Standards.

74. As noted at paragraph 17, there have been new national policy statements and national environmental standards gazetted. My recommendation on this submission is at the time of writing this report. The Panel may wish to update the tables in the PDP to reflect these new amendments. As they are not provisions, I do not consider that a submission is required to provide the scope to undertake this administrative update.

### 5.3 Recommendation

I recommend that the table in the National Direction Instruments referring to NPS Reviews is amended as follows:

<del>Reference Document</del>	<del>Kaipara District Plan reviewed prior to notification?</del>
National Policy Statement for Indigenous Biodiversity 2023	<u>Yes This plan has been reviewed (February 2025)</u>

National Policy Statement for Highly Productive Land 2022	<del>Yes</del> <a href="#">This plan has been reviewed (February 2025)</a>
National Policy Statement on Freshwater Management 2020	<del>Yes</del> <a href="#">This plan has been reviewed (February 2025)</a>
National Policy Statement on Urban Development 2020	<del>Yes</del> <a href="#">This plan has been reviewed (February 2025)</a>
National Policy Statement on Renewable Electricity Generation 2011	<del>Yes</del> <a href="#">This plan has been reviewed (February 2025)</a>
National Policy Statement on Electricity Transmission 2008	<del>Yes</del> <a href="#">This plan has been reviewed (February 2025)</a>
New Zealand Coastal Policy Statement 2010	<del>Yes</del> <a href="#">This plan has been reviewed (February 2025)</a>

## 6. Topic 4: Tangata Whenua / Mana Whenua

### 6.1 Introduction

75. The Tangata Whenua / Mana Whenua section received five submissions. Daytona Trust [263.3], Tappenden Holdings Ltd [289.3] and BTRA [300.4] all request that wording in this section be amended to clarify that all the statutory acknowledgement areas are accurately mapped in planning maps.
76. Amanda Harris [122.6] seeks additional policy recognition regarding significant decisions being approved unless expert input has been obtained.
77. Te Roroa Whatu Ora Trust & Te Roroa Manawhenua Trust (**TRWO&TRM**) [141.5] seek policies and objectives in regard to Te Roroa being the primary decision-making authority within its rohe and requiring early and documented engagement.

### 6.2 Analysis

78. Amanda Harris [122.6] and TRWO&TRM [141.5] both seek additional objectives and policies to address identified issues. It should be noted that this section of the PDP does not have any provisions i.e. objectives or policies. The decision they are seeking is outside the scope of this report and these are better addressed within the Strategic Directions topic where the merits of their submission can be considered in the wider context. I therefore defer the submissions to the hearing later this year.
79. Daytona Trust [263.3], Tappenden Holdings Ltd [289.3] and BTRA [300.4] request that the wording '*Statutory acknowledgements within the Kaipara District can be located on the planning maps*' is amended by way of replacing the '*can be located*' with '*are*'. The submitters consider

that the notified wording is unclear whether statutory acknowledgements have been identified on the planning maps. I have reviewed the wording as notified and agree with submitters that the wording is ambiguous. I have discussed the notified wording with KDC staff who were responsible for drafting this section with input from relevant tangata whenua. KDC considers that the planning maps do reflect all Statutory Acknowledgement areas with the exception of the boundaries of the Kaipara Harbour as these cross into Auckland Council and Northland Regional Council jurisdictions. It would be inappropriate to show the harbour as a Statutory Acknowledgement given it is outside the jurisdiction of the district plan.

80. In regard to the submitters concerns on clarity I recommend that an amendment to the wording is made for clarity as well as a reference to the KDC jurisdiction.

### 6.3 Recommendation

81. I recommend that the following amendment is made to Tangata Whenua / Mana Whenua section, Statutory Acknowledgements and Overlays as follows:

#### **Statutory Acknowledgements and Overlays**

Statutory acknowledgements within the Kaipara District ~~are can be~~ located on the planning maps where these are within the jurisdiction of Kaipara District Council. and may be listed as a site or area of significance to Māori as identified in SCHED 3 - Sites and Areas of Significance to Māori:

82. Tokatoka Scenic Reserve; and

83. Te Tarehu overlay