



Kaipara te Orangahui • Two Oceans Two Harbours

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## Submission on Proposed Kaipara District Plan

### Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

*Clause 6 of Schedule 1, Resource Management Act 1991*

**To:** Kaipara District Council - District Plan Review

**Date received:** 30/06/2025

**Submission Reference Number #:**125

This is a submission on the following proposed plan (the **proposal**): Proposed Kaipara District Plan

**Submitter:**

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**I wish to be heard:** Yes

**I am willing to present a joint case:** Yes

Could you gain an advantage in trade competition in making this submission?

- **No**

If you have answered yes to the above question, are you directly affected by an effect of the subject matter of the submission that:

- (a) adversely affects the environment; and
- (b) does not relate to trade competition or the effects of trade competition

- **No**

# Submission points

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Point 125.1

Section: Subdivision

Sub-section: Rules

Provision:

SUB-R6	Environmental benefit subdivision
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Support / Amend / Oppose: Amend

Submission:

The proposed plan as outlined in **SUB-R6: Environmental Benefit Subdivision** represents an important regulatory mechanism for promoting conservation and biodiversity. However, a review of this rule highlights some critical areas that require clarification, refinement, and enhancement to better support ecological restoration, align with regional objectives, and address practical realities on the ground in the Kaipara District.

## 1. Lack of Clarity in Key Definitions

The proposed rule refers to several important ecological terms—such as “significant indigenous vegetation,” “habitat,” “natural wetland,” and “duneland”—without providing clear, plan-specific definitions. The reliance on Appendix 5 of the Northland Regional Policy Statement (RPS) is appropriate for determining ecological significance, but the absence of clearly defined terms within the district plan itself creates ambiguity for landowners and planners. For example:

- **“Significant”** needs quantification or threshold guidance.
- **“Habitat”** could encompass a range of conditions—some degraded, some pristine.
- **“Natural wetland”** should be better described in terms of existing dominant vegetation type (exotic vs indigenous), ecological significance, vegetation associations relevant to the Kaipara context.

**Recommendation:** The Plan should include specific, Kaipara district-relevant definitions of these features and incorporate cross-references to accepted technical standards and assessment methods. This would improve consistency, transparency, and enforceability.

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## 2. Reinclusion of Subdivision Rights for Restoration Planting

Currently, the rule limits environmental benefit subdivisions to existing natural features not already subject to protection covenants and those assessed as ecologically significant. This discourages proactive restoration of degraded sites such as:

- Riparian margins suffering from erosion or nutrient runoff;
- Modified or drained wetlands with restoration potential;
- Eroded hill slopes lacking vegetation cover.

This approach misses a crucial opportunity to incentivize restorative efforts. Much of the high-value ecological land in Kaipara is already legally protected, either through QEII covenants, the Reserves Act, or consent notices. Therefore, the policy emphasis should evolve to support the restoration of degraded but restorable areas.

**Recommendation:**

Reinstate or introduce a parallel pathway that enables subdivision rights in return for revegetation and ecological restoration, even where no existing significant vegetation exists. This could include:

- Required planting of locally appropriate indigenous species;
- Long-term pest and stock exclusion commitments;
- Performance monitoring over a 5 year period.

This would align the Plan with the restoration-focused direction of national policy instruments such as the National Policy Statement for Indigenous Biodiversity (NPS-IB) and the Essential Freshwater package.

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### 3. Shifting the Focus: From Protection to Restoration

The rule is largely focused on preservation of existing ecosystems. However, the ecological context in the Kaipara District indicates that restoration efforts—particularly of degraded features—are where significant gains are still to be made. For instance:

- **Riparian buffers** along waterways in pastoral areas remain poorly vegetated and contribute to sediment and nutrient loading.
- **Wetlands** have been disproportionately lost or modified.
- **Erosion-prone slopes**, particularly in steep pastoral land, offer key opportunities for reforestation to improve water quality and reduce sedimentation.

**Recommendation:** The rule framework should be amended to broaden the scope of eligible environmental benefits to include:

- Actively degraded land with documented restoration potential;
  - Catchment-priority areas (e.g., contributing to Kaipara Harbour sediment reduction);
  - Projects with comprehensive ecological management plans outlining clear restoration objectives, monitoring protocols, and timeframes.
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### 4. Additional Technical Comments on SUB-R6

- The **minimum site size of 4,000m<sup>2</sup>** is reasonable but could benefit from flexibility where site-specific ecological benefits justify smaller or larger allotments.
- The requirement that the **title must predate 28 April 2025** may arbitrarily exclude some legitimate restoration opportunities on newly consolidated land.
- Control over **earthworks** is appropriate, but the rule should require that ecological integrity is prioritized during platform placement and access development.
- Control over the **use of small or fragmented covenanted areas** is supported, but clearer criteria should be developed to assess sustainability.

### Relief sought

While SUB-R6 of the Kaipara District Plan provides a robust framework for protecting ecological values through subdivision, the current version overemphasizes existing protection and fails to embrace restoration

potential as a legitimate environmental benefit. A more balanced and future-focused approach would:

- Clearly define key terms;
- Reinstate or introduce subdivision pathways for restoration planting;
- Focus efforts on degraded but restorable landscapes;
- Promote ecosystem recovery alongside protection.

Such refinements would better support the long-term ecological resilience and sustainability goals of the Kaipara District.

Point 125.2

Section: Subdivision

Sub-section: Rules

Provision:

General rural zone	<p><b>1. Activity status:</b> Restricted Discretionary</p> <p><b>Where:</b> An area of existing <a href="#">indigenous vegetation</a> or natural <a href="#">wetland</a> does not comply with the minimum area requirements provided in <a href="#">SUB-S16</a> (and is therefore not a controlled <a href="#">activity</a> under <a href="#">SUB-R6</a>), revegetation or enhancement planting may be undertaken to enable an existing area to meet the minimum area requirements in <a href="#">SUB-S16</a>, where the planting complies with the following:</p> <p>a. The significant <a href="#">indigenous vegetation</a>, natural <a href="#">wetland</a> or duneland to be protected is not already subject to a conservation covenant pursuant to the <b>Reserves Act 1977</b>; or the <b>Queen Elizabeth II National Trust Act 1977</b>; or consent notices;</p> <p>b. The <a href="#">subdivision</a> proposes to protect all areas of significant <a href="#">indigenous vegetation</a> or habitat, natural <a href="#">wetland</a> or duneland by way of a conservation covenant pursuant to the <b>Reserves Act 1977</b>; or the <b>Queen Elizabeth II National Trust Act 1977</b>; or consent notices;</p> <p>c. Each separate area of significant <a href="#">indigenous vegetation</a> or habitat, natural <a href="#">wetland</a> or duneland included in the total area of <a href="#">indigenous vegetation</a> or</p>	<p><b>3. Activity status when compliance with SUB-R7 not achieved:</b> Discretionary</p>
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natural [wetland](#) to be covenanted must be assessed by a suitably qualified person as satisfying at least one criteria in Appendix 5 of the Northland [RPS](#) (Criteria for determining significance of [indigenous biodiversity](#));

- d. An ecological management plan is prepared to address the ongoing management of the covenanted area(s) to ensure that the values for which the area was covenanted are maintained. The ecological management plan must include:
  - i. Fencing requirements for the covenanted area(s), including how the areas are excluded from stock intrusion;
  - ii. Details of ongoing pest plant and animal control commitments; and
  - iii. A planting plan showing any enhancement or edge planting required within the covenanted area(s), and evidence that the planting plan has been implemented for a minimum period of 12 months for the feature being restored or enhanced prior to an application for [subdivision](#) under this rule being made to [Council](#);
- e. All proposed new environmental [allotments](#) are to have a minimum [net site area](#) (excluding access legs) of 4,000m<sup>2</sup>;
- f. The record of title to be subdivided must be dated prior to 28 April 2025; and
- g. The [land](#) to be subdivided into the environmental benefit lots is not [highly productive land](#) (as determined by either the New Zealand Land Resource Inventory maps or a property scale [site](#) specific assessment Land Use Capability Classification prepared by a suitably qualified person);

## 2. Discretion is restricted to the following matters:

- a. The matters of control listed in [SUB-R3](#);
- b. [Subdivision](#) design and layout and proximity to the significant [indigenous vegetation](#) or habitat, natural [wetland](#) or duneland being protected;
- c. The ecological benefits that will result from the [subdivision](#) and level of protection and enhancement proposed;
- d. Matters contained in the ecological management plan for the covenanted area(s);
- e. The extent of [earthworks](#), including [earthworks](#) for the location of [building](#) platforms and [access ways](#);
- f. The use of covenants protecting individual trees or smaller areas of [indigenous vegetation](#) or habitat, natural [wetland](#) or duneland that are not sustainable; and
- g. The [subdivision](#) layout and design regarding how this may impact on the operation, maintenance, upgrading and development of existing [infrastructure](#) assets.

**Support / Amend / Oppose:** Amend

**Submission:**

SUB-R7 attempts to provide a pathway for landowners to undertake revegetation or ecological enhancement to meet environmental benefit subdivision criteria, where existing ecological values fall short of the thresholds in SUB-R6. While the intention to enable restoration is commendable, the rule as currently drafted is overly complex, difficult to enforce, and risks creating perverse outcomes for both landowners and the environment.

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## 1. Overcomplicated and Bureaucratically Burdensome

The requirements under SUB-R7 are extensive and layered:

- Landowners must prepare **detailed ecological management plans**;

- Planting must be implemented and maintained for **at least 12 months prior to application**;
- A **qualified expert** must confirm compliance with Appendix 5 of the Northland RPS;
- The ecological enhancement must meet **area thresholds** as outlined in SUB-S16;
- The land must not be highly productive.

This effectively raises the barrier so high that only the most resourced landowners are likely to participate. It also makes the rule administratively heavy for council officers to monitor and process.

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## 2. Difficult to Enforce, Monitor, and Assess

This rule creates significant monitoring and compliance risks:

- How will council verify that the planting plan has been successfully implemented and maintained?
- What if the planting has occurred, but ecological outcomes fall short due to factors beyond the landowner's control (e.g., drought, pest re-infestation, planting failure)?
- How will council distinguish between genuinely significant ecological gain versus superficial compliance?

The reliance on expert assessments, time-based conditions (12-month evidence windows), and subjective ecological judgments make this rule prone to disputes, delays, and potential non-compliance post-subdivision.

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## 3. Risks Leading Landowners "Down the Garden Path"

By allowing a subdivision pathway based on restoration—but only if ecological criteria are met post-restoration—this rule creates a risky investment environment for landowners:

- Landowners may invest heavily in fencing, pest control, and planting;
- After 12 months, they may find that the enhancement still doesn't meet Appendix 5 criteria;
- The subdivision is then refused, despite the ecological improvements;
- This results in lost costs, time, and trust, and may ultimately discourage participation.

In effect, the rule dangles a subdivision incentive but offers no guarantee, creating a system where landowners may be led down the garden path—investing in ecological work that doesn't lead to the expected reward.

### Relief sought

Amend SUB-R7 to allow restoration or enhancement planting to be undertaken as a condition of subdivision consent, rather than requiring planting to be completed and maintained for a minimum period of 12 months prior to lodging the application.

This relief would enable:

- Landowners to commit to restoration through enforceable consent conditions;
- Restoration works (planting, fencing, pest control) to occur after subdivision approval, but prior to titles being issued or as part of ongoing ecological covenants;
- Flexibility in timing, allowing projects to better align with planting seasons and ecological best practices;

- Reduced financial and procedural risk for applicants, increasing uptake of the restoration pathway.

## Point 125.3

**Section:** Subdivision

**Sub-section:** Standards

**Provision:**

**General rural zone**

1. Environmental benefit [subdivision](#) must comply with SUB-S16-Table 1 below for protection of [indigenous vegetation](#) or habitat or for protection of natural [wetlands](#) or dunelands.

2. **Activity status when compliance not achieved:** Discretionary

SUB-S16-Table 1	
Total area of significant indigenous vegetation, habitat, or natural <a href="#">wetland</a> or duneland to be legally protected on an individual Record of Title	Maximum number of lots that can be created from an individual Record of Title
Greater than 0.5ha (5,000m <sup>2</sup> ) per lot	5

**Support / Amend / Oppose:** Amend

**Submission:**

SUB-S16 sets a uniform threshold of 0.5 ha (5,000 m<sup>2</sup>) of significant indigenous vegetation, habitat, wetland or duneland per new title, with a maximum of 5 lots per Record of Title.

While this approach is simple, it is ecologically and functionally inadequate, especially when compared to more robust frameworks in the Whangārei District Plan and Auckland Unitary Plan.

## Key Issues with Kaipara's Approach

### 1. Threshold is Too Low

A 0.5 ha minimum threshold:

- Is inadequate to ensure ecological viability for many feature types, especially for forest ecosystems, which typically require more area to support species diversity and resilience;
- May result in fragmented or marginal vegetation being protected, rather than prioritising significant, self-sustaining ecological systems;



- Encourages a “minimum effort” mindset, focusing on quantity over quality or function.

## **2. One-Size-Fits-All Model Is Ecologically Inappropriate**

Using a flat 0.5 ha threshold for all feature types ignores ecological differences:

- A 0.5 ha wetland may be sufficient to support hydrological function and habitat values;
- But a 0.5 ha bush remnant is often too small to maintain biodiversity, resist edge effects, or support long-term regeneration;
- Similarly, restoration planting areas require time and scale to become ecologically significant, and should have higher minimum thresholds to justify subdivision entitlements.

## **3. Lacks Alignment with National Policy Direction**

The National Policy Statement for Indigenous Biodiversity (NPS-IB) and NPS-FM both encourage not only the protection of existing significant features but also the restoration and enhancement of degraded ecosystems. Kaipara’s current threshold:

- Excludes restoration planting as a pathway to lot entitlement under SUB-S16;

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## **Comparison with Whangārei and Auckland Plans**

### **Whangārei District Plan - Rural Subdivision SUB-R-16**

- Uses variable thresholds based on feature type and ecological condition;
- Bush protection typically requires 4 ha or more to qualify;
- Wetlands can qualify at smaller scales (e.g., 0.5 ha), reflecting their higher ecological density;
- Revegetation planting for riparian margin or erodible slope protection is recognised, but only at larger scales (typically 2-4 ha+) with robust ecological planning.

### **Auckland Unitary Plan Rural Subdivision E39.6.4.4 and E39.6.4.5**

- Applies feature-specific size and quality standards:
  - 0.5 ha minimum for wetlands;
  - 2-4 ha or more for forest remnants;
  - 5 ha minimum for revegetation areas, accompanied by detailed planting plans, legal covenants, and ongoing management.
- Assessment is not purely area-based—ecological value and function are the key drivers of lot entitlement, with flexibility depending on expert assessment.

### **Relief sought**

## **Proposed Table – Environmental Protection Area Thresholds and Allotment Entitlements (Relief Sought)**

Type of Environmental Protection Area(s)	Extent of Environmental Protection Area(s)	Must be Contiguous	Maximum Number of Additional Allotments (per increment)	Upper Threshold (Max Allotments per Site)
<b>Indigenous-Dominated Wetlands</b>	0.5 ha – 0.99 ha	No	+1	Up to 3 additional lots
	1.0 ha – 1.99 ha	No	+1	
	Every additional 1.0 ha beyond 2.0 ha	No	+1 per 1.0 ha	
<b>Indigenous Vegetation (Bush)</b>	1.0 ha – 1.99 ha	Yes	+1	Up to 3 additional lots
	Every additional 1.0 ha beyond 2.0 ha	Yes	+1 per 1.0 ha	
<b>Revegetation / Restoration Planting</b>	At least 1.0 ha planted adjoining or buffering significant indigenous habitat, forming corridors, stepping stones, or linkages	Yes	+1	Up to 5 additional lots
	Every additional 2.0 ha beyond the first 1.0 ha	Yes	+1 per 2.0 ha	
<b>Riparian Margins (Streams/Rivers)</b>	At least 1.0 ha of indigenous planting along both banks	Yes	+1	Up to 3 additional lots
	Every additional 1.0 ha restored	Yes	+1 per 1.0 ha	
<b>Degraded Wetland Restoration</b>	At least 0.5 ha of degraded wetland restored to functional ecological condition, verified by an ecologist	Yes	+1	Up to 3 additional lots
	Every additional 0.5 ha restored to functioning condition	Yes	+1 per 0.5 ha	

**Maximum allotment entitlement sought per subdivision application is capped at 5 lots in total, regardless of combined features.**

## Key Standards and Implementation Notes (Applies to All Protected Features)

### Buffers and Area Definitions:

- Riparian margins must include a minimum 10m wide indigenous planting buffer on both banks, which counts toward total qualifying area.
- Applications based on indigenous wetland protection and degraded wetland restoration must include a minimum 10m indigenous revegetated terrestrial buffer zone surrounding the wetland, which does not count toward the qualifying wetland area threshold.

### Combining Feature Protections:

- It is possible to combine different environmental feature protections (e.g., wetland restoration plus revegetation planting) within one subdivision application to increase allotment entitlements, subject to maximum allotment thresholds.

### Example:

- A subdivision application includes:
  - **0.5 ha wetland restoration**(entitles to +1 lot)

- **2.0 ha revegetation planting**(1.0 ha initial + 1.0 ha additional) entitles to +2 lots (1 lot for first hectare, +1 for each additional 2 ha portion – pro-rated here as 1 lot for 2 ha)
  - Total lots entitlement: 1 (wetland) + 2 (revegetation) =**3 additional lots**, subject to site maximums (e.g., max 5 lots total)
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## Fencing and Stock Exclusion

- All protected areas must be covenanted and fenced to a 7-wire post and batten standard if stock are kept onsite.
  - If a no-stock covenant is imposed on site(s), boundary demarcation posts must be installed and maintained, with the following specifications:
    - Material & Size: Wooden posts, minimum diameter of No. 3 posts.
    - Installation: Posts installed with minimum 800 mm height above ground.
    - Placement: Posts spaced no more than 10 meters apart, and at every boundary direction change.
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## Covenant and Pet Control Requirements

- All environmental benefit areas must be covenanted with ongoing protection via the Reserves Act 1977, QEII Trust, or consent notice.
  - Domestic pet restrictions apply, including:
    - Ban on cats, mustelids (ferrets, stoats, weasels), exotic birds, and exotic fish.
    - Dogs must be contained securely at all times (e.g., fenced enclosures or kennels).
  - Covenant must explicitly include these restrictions.
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## Ecological Management Plan

- Required for all features and must be prepared as a condition of consent, including:
    - Pest/weed control commitments
    - Fencing and stock exclusion details
    - Planting, maintenance, and monitoring programme
    - Timeframe for revegetation (staging as subdivision condition allowed)
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### Point 125.4

**Section:** SCHED2 – Notable Trees

**Sub-section:** SCHED2 – Notable Trees

**Provision:**

Root

Unique Identifier	Botanical Name	Location	Legal Description	Protection	STEM Score
			Parcel ID	Zone (radius)	

**Support / Amend / Oppose:** Amend

#### **Submission:**

The current Notable Trees Schedule (SCHED2) in the Proposed Kaipara District Plan lists a limited number of trees, primarily Norfolk Island Pines and a few other species, with detailed information on location and Root Protection Zones (RPZ). While the RPZ methodology is sound and follows best practices, the list itself is notably short and likely does not capture the full extent of notable or significant trees within the Kaipara District.

The schedule would benefit from incorporating a comprehensive, tree-specific assessment framework to identify and evaluate notable trees based on multiple criteria including size, age, ecological and cultural significance, rarity, health, and landscape prominence. This would ensure a more representative and defensible list of notable trees.

Additionally, explicit criteria for what constitutes a “notable tree” should be established and documented within the plan to provide clarity and consistency for landowners, developers, and the community. Furthermore, there should be provisions for periodic review and updating of the schedule, as tree conditions and values may change over time. Integration of Māori cultural values concerning notable trees should also be strengthened.

#### **Relief sought**

1. That the Kaipara District Plan includes a clear, formalized assessment process for identifying and designating notable trees across the district. This process should consider multiple factors such as ecological value, cultural significance, age, size, rarity, health, and visual prominence.
2. That explicit criteria defining “notable trees” be incorporated into the plan, providing transparent and consistent guidance for tree selection and protection.
3. That the Notable Trees Schedule (SCHED2) be expanded significantly to include a broader, more representative range of notable trees across the district based on the outcomes of the comprehensive assessment process.
4. That a mechanism for periodic review and updating of the Notable Trees Schedule be established to maintain an up-to-date and relevant list.
5. That the plan formally incorporate Māori perspectives and values regarding notable trees in collaboration with local iwi, ensuring cultural heritage is recognized and respected in tree protection.
6. That all tree protection measures continue to be underpinned by sound arboricultural science, including the use of Root Protection Zones, but that these measures are applied to a more complete and representative inventory of notable trees.

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#### **Point 125.5**

**Section:** Earthworks

**Sub-section:** Standards

**Provision:**

<b>EW-S3</b>	<b>Setbacks</b>
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Submission:

Key Concern: Insufficient Setbacks for Ecological Features

- EW-S3 currently mandates only a 1.5-metre setback from site boundaries in separate ownership for earthworks. This setback does not specifically address proximity to ecologically sensitive features such as native bush remnants, wetlands, streams, or riparian zones.
- There is no explicit provision or minimum setback distance to protect ecological features, which is a significant omission given the potential for earthworks to cause erosion, sediment runoff, habitat fragmentation, and disturbance of native flora and fauna.
- The lack of ecological setbacks contrasts with best practice standards commonly applied in other District Plans and regional policies, where setbacks typically range from 10 to 20 metres or more to provide a buffer protecting ecological values.
- Without ecological setbacks, earthworks may adversely affect water quality, increase sedimentation in wetlands and streams, and threaten biodiversity — all of which contradict the Plan’s objective to avoid or appropriately manage effects on ecological values (EW-P2).
- The discretionary matters for non-compliance under EW-R1 mention “any adverse effects on cultural or ecological values,” but this reactive approach is insufficient without proactive standards to prevent harm before it occurs.
- The Plan does not clarify if other chapters’ rules (e.g., Natural Environment Values or Coastal Environment) fill this gap, potentially leading to inconsistent or inadequate ecological protection.

Relief sought

1. Introduce a minimum ecological setback of at least 10 metres from all identified native bush, wetlands, streams, and other significant ecological features, aligned with best practice and regional requirements.
2. Explicitly incorporate ecological setbacks into EW-S3 or introduce a new standard dedicated to ecological feature protection.
3. Ensure that any exceptions to these setbacks require rigorous resource consent with strict conditions, including erosion and sediment control, habitat restoration, and monitoring.
4. Clarify the interface and hierarchy between the Earthworks chapter and other chapters managing ecological values to avoid regulatory gaps or overlaps.
5. Provide guidance or maps identifying ecological features to assist applicants and Council officers in implementing the setbacks effectively.

Point 125.6

Section: Ecosystems and Indigenous Biodiversity

Sub-section: Rules

Provision:

All zones	1. Activity status: Permitted  Where:	2. Activity status when compliance with ECO-R2.1 not achieved: Restricted Discretionary
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	<p>a. It does not exceed 1,000m<sup>2</sup> per <a href="#">site</a> in any calendar year in the Māori purpose zone, General rural zone, and Rural lifestyle zone; or</p> <p>b. It does not exceed 500m<sup>2</sup> per <a href="#">site</a> in any calendar year in all other zones.</p>	<p><b>Where:</b></p> <p>a. The application includes an assessment, carried out by a suitably qualified ecologist, of whether or not any of the <a href="#">indigenous vegetation</a> proposed to be cleared meets the criteria in Appendix 5 of the <b>Northland Regional Policy Statement 2016</b> (Areas of significant <a href="#">indigenous vegetation</a> and significant habitats of indigenous fauna).</p> <p><b>3. Matters over which discretion is restricted:</b></p> <p>a. The <a href="#">effect</a> of the <a href="#">vegetation clearance</a> and associated <a href="#">land disturbance</a> on <a href="#">indigenous biodiversity</a> values;</p> <p>b. The extent of clearance proposed and any practicable alternative locations or methods to avoid or reduce the extent of <a href="#">indigenous vegetation clearance</a> and associated <a href="#">land disturbance</a>;</p> <p>c. The proposed measures to avoid, remedy, mitigate, offset or compensate adverse <a href="#">effects</a> on <a href="#">indigenous biodiversity</a> values;</p> <p>d. The reasons for the <a href="#">indigenous vegetation clearance</a> and associated <a href="#">land disturbance</a>; and</p> <p>e. Any positive <a href="#">effects</a> associated with the <a href="#">indigenous vegetation clearance</a> and associated <a href="#">land disturbance</a>.</p> <p><b>4. Activity status when compliance with ECO-R2.2 not achieved:</b> Discretionary</p>
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**Support / Amend / Oppose:** Amend

**Submission:**

The Kaipara District Plan appropriately recognizes the importance of protecting significant indigenous vegetation and habitats. The general approach to managing vegetation clearance through permitted activity thresholds attempts to balance ecological protection with landowner flexibility.

However, the current permitted clearance thresholds are too high for areas qualifying as significant indigenous vegetation as assessed under Appendix 5 of the Northland Regional Policy Statement (RPS). Vegetation within these sensitive zones is of exceptionally high ecological value, often representing irreplaceable habitat in the short to medium term. Clearance limits in the hundreds or thousands of square meters risk fragmenting habitat, reducing biodiversity, and undermining ecological integrity.

To address this, I propose the following amendments:

- The permitted indigenous vegetation clearance limit to 100 m<sup>2</sup> per site per calendar year outside any areas identified as significant indigenous vegetation under Appendix 5 of the Northland RPS. This reflects a reasonable balance between landowner flexibility and ecological protection in less sensitive areas.
- Within any area qualifying as significant indigenous vegetation under Appendix 5 of the Northland RPS, reduce permitted indigenous vegetation clearance to a maximum of 5 m<sup>2</sup> per site per calendar year. This strict limit aligns with best practice precautionary principles for protecting highly sensitive and significant biodiversity.
- Where vegetation clearance within these significant areas exceeds 5 m<sup>2</sup> and is unavoidable, require resource consent as a restricted discretionary or discretionary activity, including the implementation of offsetting measures and an ecological fauna management plan. This ensures any impacts are fully assessed and appropriately mitigated or compensated, supporting long-term ecological viability.

This approach aligns with the Resource Management Act's provisions to protect significant indigenous vegetation and habitats, reflects national and regional policy statements, and is consistent with best practice biodiversity management nationally and internationally.

The current District Plan's lack of mapped significant indigenous vegetation identified under Appendix 5 of the Northland RPS limits enforceability. I therefore encourage the Council to prioritize the immediate identification and mapping of these areas to provide certainty for landowners and effective ecological protection.

### **Relief sought**

1. Permitted clearance: Allow up to 100 m<sup>2</sup> per site per calendar year of indigenous vegetation clearance as a permitted activity outside any area identified as significant indigenous vegetation under Appendix 5 of the Northland Regional Policy Statement (RPS).
2. Restricted clearance in significant areas: Limit permitted clearance within any area identified as significant indigenous vegetation under Appendix 5 of the Northland RPS to 5 m<sup>2</sup> per site per calendar year.
3. Clearance exceeding 5 m<sup>2</sup> in significant areas: Require any indigenous vegetation clearance exceeding 5 m<sup>2</sup> within significant vegetation areas to be a restricted discretionary or discretionary activity, subject to:
4. Clearance for house site creation: Additionally, allow up to 500 m<sup>2</sup> of indigenous vegetation clearance as a restricted discretionary activity for the express purpose of creating a house site, subject to:
  - ◊ An ecological assessment by a qualified ecologist; and
  - ◊ Development and implementation of an ecological management plan to avoid, remedy, mitigate, or offset adverse effects on indigenous biodiversity.
  - ◊ An ecological assessment by a qualified ecologist;
  - ◊ Implementation of appropriate offsetting measures to compensate for vegetation loss; and
  - ◊ Development and implementation of fauna management plans to protect affected indigenous species.

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### **Point 125.7**

**Section:** Natural Character

**Sub-section:** Rules

**Provision:**

<b>All zones</b>	<b>1. Activity status:</b> Permitted  <b>Where:</b> <ol style="list-style-type: none"> <li>The <a href="#">activity</a> complies with <a href="#">NATC-S3 - Indigenous vegetation clearance</a>; or</li> <li>The <a href="#">indigenous vegetation clearance</a> is for the maintenance of lawfully established <a href="#">roads</a>, fences, utility connections, <a href="#">driveways</a>, parking areas, effluent disposal systems, swimming pools, walking or cycling tracks, or farm and <a href="#">forestry</a> tracks.</li> </ol>	<b>2. Activity status when compliance not achieved:</b> Restricted Discretionary  <b>3. Matters over which discretion is restricted:</b> <ol style="list-style-type: none"> <li>The matters in <a href="#">NATC-P5</a>; and</li> <li>The positive <a href="#">effects</a> of the <a href="#">activity</a>.</li> </ol>
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**Support / Amend / Oppose:** Amend

**Submission:**

The Kaipara District Plan's treatment of wetlands and their margins reveals significant shortcomings and concerning gaps, particularly regarding the management of indigenous vegetation clearance and earthworks within sensitive areas near natural inland wetlands. The plan appears outdated, insufficiently rigorous, and poorly integrated with the mandatory National Environmental Standards for Freshwater (NES-FW 2020), risking serious environmental harm and legal non-compliance.

**Major Flaws and Deficiencies:****1. Failure to Properly Recognize NES-FW Requirements**

The plan makes only a vague nod to the NES-FW 2020 and does not incorporate its provisions meaningfully into the district rules. This is a fundamental flaw because the NES-FW explicitly regulates activities within 10m of natural inland wetlands, including strict controls on vegetation clearance and earthworks.

- There is **no clear statement** that vegetation clearance or earthworks within 10m of a natural inland wetland is either a non-complying or even a discretionary activity. This omission risks allowing damaging activities without appropriate scrutiny or resource consent.
- The absence of explicit cross-references to NRC as the consent authority under NES-FW and the lack of mandatory consent requirements in this sensitive setback undermine both the integrity and enforceability of the plan.

**2. Permissive Thresholds for Vegetation Clearance and Earthworks in Wetland Margins**

The plan permits up to 50m<sup>2</sup> of indigenous vegetation clearance and 50m<sup>3</sup> of earthworks within wetland, lake, and river margins per year, with only discretionary consent triggered above those limits. This threshold is alarmingly lax for such ecologically sensitive environments.

- Given the cumulative and irreversible impacts even small disturbances can have on wetlands, these limits are not precautionary or protective enough.
- More stringent controls should apply within at least 10 meters of natural inland wetlands, potentially defaulting to non-complying status to reflect the high ecological sensitivity.

**3. No Clear Non-Complying Activity Status for Critical Wetland Setback**

The plan's silence on the 10m wetland setback in relation to non-complying activity status is a glaring oversight.



- National standards and best practice in wetland protection internationally recognize that the first 10 meters from a wetland boundary is the most critical buffer.
- Failure to assign a non-complying status for vegetation clearance or earthworks within this zone effectively signals the district council is willing to accept potentially significant adverse effects in this sensitive buffer zone, which is reckless.

#### 4. **Weak Policy Framework with Limited Enforcement Mechanisms**

While the plan contains generic policies to “avoid,” “remedy,” or “mitigate” adverse effects, these are little more than statements of intent without sufficiently robust controls to enforce them.

- The rules do not clearly translate these policies into strict standards or prohibitions.
- The “permitted” activity status for numerous works that could severely impact wetland margins undermines the principle of protecting natural character.
- This weak regulatory framework fails to provide a genuine deterrent or safeguard against degradation.

#### 5. **Lack of Clear Guidance or User-Friendly Information**

The plan’s complexity and lack of clarity about the interaction between district plan rules and NES-FW 2020 leave consent applicants and enforcement officers without proper guidance.

- This will inevitably lead to confusion, inconsistent application of rules, and potentially unlawful activities proceeding without appropriate resource consents.
- The district plan does not advise users explicitly that they must also obtain consent from the Northland Regional Council under NES-FW for any clearance or earthworks within 10m of a natural inland wetland, risking regulatory gaps.

#### 6. **Inadequate Recognition of Cumulative Effects**

The approach ignores cumulative and synergistic impacts of repeated small-scale clearance and earthworks on wetland health, biodiversity, and hydrology.

- Allowing piecemeal activities as permitted or restricted discretionary encourages incremental degradation rather than preventing it.
- There is no explicit mechanism in the rules or policies to address cumulative impacts over time.

### **Relief sought**

#### 1. **Explicit Inclusion of NES-FW 2020 Requirements**

That the Kaipara District Plan be amended to explicitly incorporate the National Environmental Standards for Freshwater (NES-FW 2020) provisions, particularly:

#### 2. **Lower Permitted Activity Thresholds Near Wetlands**

That the permitted activity standards for indigenous vegetation clearance and earthworks within wetland, lake, and river margins be substantially tightened, including:

- Clearly stating that any indigenous vegetation clearance and earthworks within **10 meters of a natural inland wetland** is a **non-complying activity** under the district plan, reflecting the high environmental sensitivity and mandatory consent requirements under NES-FW.
- Requiring that resource consent for such activities must be sought from the Northland Regional Council under NES-FW as the primary consenting authority, with clear cross-references included in the plan.

#### 3. **Clear and Stronger Policy and Rule Framework**

That the district plan be amended to:

- Reducing or prohibiting permitted indigenous vegetation clearance within 10m of natural inland

wetlands.

- ◊ Limiting earthworks within 10m setbacks to only essential maintenance with strict volume and area restrictions well below current thresholds.
- ◊ Defaulting to discretionary or non-complying status for any works exceeding minimal thresholds near wetlands.

#### **4. Improved Guidance and Cross-Referencing**

That the plan includes:

- ◊ Strengthen policies to unequivocally prioritize avoidance and protection of wetland natural character, especially within 10m setbacks.
- ◊ Establish clear non-complying activity status for any earthworks or vegetation clearance within a 10m setback from a natural inland wetland.
- ◊ Incorporate specific assessment criteria that require explicit consideration of NES-FW compliance and freshwater ecological values.

#### **5. Address Cumulative Effects**

That the plan provide mechanisms or rules to consider and manage the cumulative adverse effects of multiple small-scale indigenous vegetation clearance and earthworks activities on wetlands over time.

- ◊ Clear guidance notes for users stating the requirement to obtain separate consents under NES-FW from the Northland Regional Council for activities within 10m of natural inland wetlands.
- ◊ References to NRC as the relevant consent authority for freshwater standards, ensuring transparency and preventing regulatory gaps.