

SUBMISSION ON PROPOSED KAIPARA DISTRICT PLAN

To Kaipara District Council – districtplanreview@kaipara.govt.nz

Submitter - *This submission is made on behalf of*

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Trade Competition

We could not gain an advantage in trade competition through this submission.

BACKGROUND

We are owners, with others, of a 423ha block of land in the Brynderwyn Range largely covered in mature and regenerating indigenous vegetation. It is located towards the end of King Road, Mangawhai. The entire property is covenanted to the QEII National Trust and cannot be subdivided. We have been part of Marunui for 38 years and have a house there.

Marunui falls within the Outstanding Natural Landscape ONL14 Bream Tail / Brynderwyn Ranges and is similarly identified in the Northland Regional Policy Statement as Landscape Unit: Brynderwyn Range and Bush margins.

<https://www.nrc.govt.nz/media/crtvtj1/brynderwynrangesandbushmargins.pdf>

It also falls within the Brynderwyn Hills Forest Complex identified in DOC's Waipu Ecological District PNAP report as being the most ecologically diverse site in terms of forest and shrubland diversity. Northland brown kiwi were released at Marunui between 2013-15 and in 2020 and have since increased in number and expanded their territories throughout the Brynderwyns, well beyond the original release site. Significantly, the Brynderwyns have become a high density kiwi habitat

Through our conservation activities and especially with the reintroduction of Northland brown kiwi we have worked with local hapu, Patuharakeke te Iwi and Te Uri o Hau, and have a close association with the Piroa Conservation Trust.

Our submission focuses on the district and regional significance of the Brynderwyns range and surrounds and the importance of protecting landscape and ecological values from inappropriate subdivision, use and development.

SPECIFIC PROVISIONS IN THE PROPOSED DISTRICT PLAN THIS SUBMISSION RELATES TO.

Requested amendments/additions are underlined and deletions are shown by ~~strikeout~~. Some amendments are for clarification.

A NFL – NATURAL FEATURES AND LANDSCAPES

The inclusion of this chapter with its aim to protect Outstanding Natural Features (ONF) and Outstanding Natural Landscapes (ONL) from inappropriate subdivision, use, and development as a matter of national importance under the RMA s.6(b) is supported. The boundary of ONL14 Bream Tail / Brynderwyn Ranges as shown on the planning map is supported.

1 OVERVIEW

Given the maps are adopted from the Northland Regional Policy Statement 2016 the referencing of the NRPS *Appendix 1: Mapping Methods* is supported. It is considered that reference should also be made to the NRPS Landscape Assessment Worksheets (2014) which contain comprehensive details on each identified ONL and ONF. They are more detailed and recent than Kaipara's Landscape Technical Report (2010).

2 OBJECTIVES

NFL-02 Maintenance and enhancement of Outstanding Natural Features and Outstanding Natural Landscapes

Amend/Add

"The conservation, maintenance and enhancement of the characteristics....."

Conservation should be a key objective in addition to maintenance and enhancement.

3. POLICIES

NFL-P1 Activities that maintain, restore or enhance characteristics, qualities and value

Amend/Add

"Enable activities that protect, maintain, restore or enhance the characteristics,"

This addition reflects the emphasis on protection in RMA s.6(b).

NFL-P4 Adverse effects outside the coastal environment

Amend/Add

1. "Avoid significant adverse effects of subdivision, land use and development on the characteristics, qualities"

2. "Avoid, remedy or mitigate other adverse effects (including cumulative adverse effects) of subdivision, land use and development"

These additions reflect the inclusion of subdivision in clause 2. b. below and in RMA s.6(b)

a. "In Outstanding Natural Features, ~~ensuring~~ requiring that the scale and intensity"

b. "In Outstanding Natural Landscapes, ~~ensuring~~ requiring that the location and intensity of subdivision, use and"

The amendments in a. and b. replacing 'ensuring' with 'requiring' give effect to and are consistent with the NRPS on ONLs in its Policy 4.6.1.

c. "Having regard to:

- i. Integration of development into the Outstanding Natural Feature or Outstanding Natural Landscape, maintenance of low development density, and retention of predominant vegetation cover, particularly indigenous vegetation;
- ii. The location, design, scale, prominence and visibility of any buildings, structures, and access, and the extent of earthworks and indigenous vegetation clearance”

NFL-P6 Assessment of resource consents

Amend/Add

“Have regard to the following matters when assessing resource consent applications for subdivision, land use and development”

Addition reflects RMA s.6(b)

Delete

~~3. The intensity of buildings, structures or infrastructure in the locality and the landscape values of surrounding land and established activities;~~

This is largely a repeat of clause 4. and therefore not needed. Nor should the intensity of buildings, structures and infrastructure in the area surrounding an ONL determine the density of the same within an ONL.

Replace with new 3.

3. The extent of the area affected and whether adverse effects are minor, more than minor or transitory;

Delete

~~6. The need for, extent, design, location and visibility of earthworks and vegetation clearance;~~

Replace with new 6

6. The degree of modification, damage, loss or destruction that will result from the activity in terms of vegetation clearance and earthworks;

The emphasis should be on the effects rather than on the need for these two activities.

Add new criteria

The maintenance of established areas and patterns of indigenous vegetation cover;

4 RULES

The rules are divided into activities either outside or within the ‘coastal environment’ (CE).

Our focus is on **ONL14 Bream Tail / Brynderwyn Ranges** which is outside the coastal environment. Amendments requested below reflect the need for Council to give full consideration to its obligations under s.6(b) and s.6(c) of the RMA and apply the activity status which best achieves the levels of protection anticipated.

NFL-R2 New buildings and structures

Activity status when compliance not achieved.

Delete Restricted Discretionary. Replace with Non-Complying

This status requires adverse effects to be minor and not contrary to the Plan’s objectives and policies.

Delete 4. b. ~~The positive effects of the activity.~~

This is unnecessary as NFL-P6, assessment criteria 2, refers to both adverse and positive effects.

ONL and ONF outside the coastal environment, 5. Activity status: Restricted Discretionary

This references RM090103 for Lot 2DP 316176 (Mangawhai Heads Holdings Ltd). Why is this in the Proposed Plan? It relates to a decision of the Environment Court which was resolved 10 years ago, Decision No [2015] NZEnvC 069. This decision gave rise to Condition 1(p) and its Restricted Discretionary activity status relating to this property. If it remains in the plan it should be made clear this activity status is an exception as a result of that decision.

NFL-R3 Indigenous vegetation clearance

Amend/delete

1. Activity status: Delete ~~Permitted~~ replace with Discretionary
Activity status when compliance not achieved.
Delete ~~Restricted Discretionary~~. Replace with Non-Complying

This status requires adverse effects to be minor and not contrary to the Plan's objectives and policies. This is important given the significance of indigenous vegetation in ONLs, such as ONL14, and the requirement for its protection under s.6(c) of the RMA. Its vital contribution to indigenous biodiversity cannot be overstated in the face of the recorded and acknowledged loss and modification of significant indigenous vegetation in Kaipara District.

Delete 3. b. ~~The positive effects of the activity.~~

This is unnecessary as NFL-P6, assessment criteria 2, refers to both adverse and positive effects.

NFL-R4 Earthworks

Amend/delete

1. Activity status: Delete ~~Permitted~~ replace with Discretionary
Activity status when compliance not achieved.
Delete ~~Restricted Discretionary~~. Replace with Non-Complying

This status requires adverse effects to be minor and not contrary to the Plan's objectives and policies.

Delete 3. b. ~~The positive effects of the activity.~~

This is unnecessary as NFL-P6, assessment criteria 2, refers to both adverse and positive effects.

5. STANDARDS

NFL-S2 Gross floor area

Amend

1. The gross floor area of any new building or existing building plus addition must not exceed:
 - a. ~~400m²~~ 50m² for any accessory building; and
 - b. ~~450m²~~ 100m² for any residential unit.

The GFAs for both 1.a and 1.b are excessive, particularly for an accessory building. The scale and size of buildings has the capacity to generate adverse effects and the reduced sizes are considered more appropriate in the context of protecting ONLs and ONFs.

NFL-S4 Earthworks

Amend/delete

1. The earthworks must not exceed 150m³ ~~in any 12-month period~~ per site; and
2. The maximum cut height or fill depth must not exceed 2m.

Repeated earthworks at this scale would have a cumulative adverse effect on the ONL, ONF. They should only be allowed once.

NFL –S5 Indigenous vegetation clearance

Standards are required that reflect the significance of indigenous vegetation, the habitat it provides for flora and fauna, and afford it sufficient and appropriate protection, The inclusion of just one standard is inadequate

Amend/add

1. The indigenous vegetation clearance must:

- a. Maintain established areas and patterns of indigenous vegetation cover.
- b. Not exceed 150m2 in any 12-month period per site.
- c. Not take place in a continuous area of predominantly indigenous vegetation over 1ha in area.
- d. Take account of the ecological significance of indigenous vegetation and the presence of rare or endangered flora and fauna/
- e. Not take place in an area identified by the Department of Conservation as having high kiwi density.

Clearance or disturbance of vegetation should not be permitted more than once on a site, ie. not every 12 months. Over time repeated annual clearance of 150m2 would result in the removal of considerable areas of significant indigenous vegetation, generating a cumulative adverse effect.

For example, this would be extremely detrimental to the Brynderwyn Hills Forest Complex which is identified in the Waipu Ecological District PNAP report as being the most ecologically diverse site in terms of forest and shrubland diversity. It contains 10 threatened and 5 regionally significant fauna species and 3 threatened and 11 regionally significant plant species.

A map showing areas of high kiwi density should be available from DoC and should be included as an Appendix in the plan.

B SUBDIVISION

1 OVERVIEW

Add in 2nd paragraph

“It is important that the design and layout of a subdivision responds to any constraints on the ability of the allotments to be developed. This is particularly so in sensitive environments such as the coastal environment, outstanding natural landscapes and outstanding natural features, Constraints may include significant natural, cultural, historical or ecological features within or adjoining the allotments, the potential impact of development on, or effects of, strategic infrastructure, or risks from natural hazards”

2 POLICIES

SUB-P2 Infrastructure servicing requirements

Support: These requirements are supported as it is essential that appropriate infrastructure is in place or provided for to cope with any future development proposed. This is clearly not the case at the moment.

SUB-P12 Subdivision in the Mangawhai/Hakaru Managed Growth Area

ONL14 Bream Tail / Brynderwyn Ranges is within the Growth Area.

Support: We fully support the restriction on further subdivision, including urban infill subdivision, within the identified Mangawhai/Hakaru Managed Growth Area for the reasons given in the chapter. It is noted that there is provision for small-scale opportunities.

3. RULES

SUB-R3 Subdivision to create new allotments

Support

1.b. Subdivision in the General rural zone does not contain land defined as highly productive land.

1.c. Subdivision in the General rural zone must create no more than one additional allotment from the Record of Title being subdivided.

It is important to protect highly productive land and at the same time maintain the existing rural character.

Within the Mangawhai/Hakaru Managed Growth Area

Support

11. Activity status: Discretionary

12. Activity status when compliance with SUB-R3.11.a not achieved: Non-Complying

This status gives Council full discretion in its decision making.

SUB-R4 Small lot subdivision

Support

General rural zone.

1. Activity status: Controlled

c. The subdivision must not be located in the Mangawhai/Hakaru Managed Growth Area;

4. Activity status when compliance with SUB-R4.1.c not achieved: Non-Complying

This will minimise fragmentation within the Growth Area and maintain a more open rural character and amenity. It will also serve to protect ONL 14 Bream Tail / Brynderwyn Ranges which falls within the Growth Area.

SUB-R6 Environmental benefit subdivision

Add

Environmental benefit lots are not available in Outstanding Natural Landscapes

There are no credible grounds for granting EBLs in an ONL as it has already met the criteria for its classification as being Outstanding. In the case of ONL14, the Brynderwyns are already largely clad in indigenous vegetation and enabling EBLs here make no sense. Enabling the creation of multiple lots will simply degrade its qualities and values. The activity status in an ONL or ONF should be Prohibited.

General rural zone.

Additions/amendments

1. Activity status: Controlled

Where:

Environmental benefit subdivision must comply with the following:

a. SUB-S2 to SUB-S16;

b. The significant indigenous vegetation or habitat, natural wetland or duneland to be protected must not be subject to an existing conservation covenant pursuant to the Reserves Act 1977; or the Queen Elizabeth II National Trust Act 1977; or consent notices;

c. It is essential that all the areas be subject to protection by a conservation covenant in perpetuity.

d. "Each separate area of significant indigenous vegetation or habitat, natural wetland or duneland proposed to be covenanted must be assessed by a suitably qualified and experienced ecologist ~~as satisfying at least one~~ against the criteria in Appendix 5 of the Northland Regional Policy Statement (Criteria for determining significance of indigenous biodiversity)"

The Section 32 evaluation refers to this, which implies that satisfying just one criteria is insufficient.

e. It is also considered there should be a requirement to use only ecosourced plants and this should be specified in the proposed planting plan (e iii).

Under the controlled activity status an environmental benefit subdivision must be granted consent if it complies with clauses SUB-R6 a. to h. If it cannot comply with a. SUB-S2 to SUB-S16 then it becomes discretionary.

Similarly if it cannot comply with SUB-R6.1.b-h it also becomes discretionary. This is too liberal. These are essential requirements which will determine the success of the environmental activity in the area to be protected.

If compliance cannot be achieved then the activity status should be Non-complying.

Amend

4. Activity status when compliance with SUB-R6.1.b-h not achieved:
~~Discretionary~~ Non-complying

The minimum net site area for new EBLs of 4000m2 is supported.

SUB-R7 Restoration or enhancement planting

General rural zone

The entitlement to these EBLs is completely reliant on the success and ongoing maintenance of any restoration or enhancement planting undertaken. Apart from requiring proof that planting has been undertaken and has survived for at least 12 months before an application can be made there seems to be no requirement for ongoing monitoring or reporting thereafter. There is no guarantee of success and a high level of uncertainty.

Amend

1. Activity status: ~~Restricted-Discretionary~~. Change to Discretionary

3. Activity status when compliance with SUB-R7 not achieved: Delete ~~Discretionary~~
Change to Non-Complying

4. STANDARDS

SUB-S1 Minimum allotment sizes (excluding access legs)

Support

Rural lifestyle zone: 7. Allotments must have a minimum net site area of 4,000m

General rural zone: 8. Allotments must have a minimum net site area of 12ha

Minimum net site areas are appropriate.

SUB-S4 Allotments containing existing or proposed buildings

Add new c.

3. Matters over which discretion is restricted:

c. Adverse effects on Outstanding Natural Landscapes and existing areas of indigenous vegetation

SUB-S14 Subdivision of a site within a natural character, coastal environment, outstanding natural feature (ONF) or outstanding natural landscape (ONL) overlay

1. Any proposed building platform must be located entirely outside of the following areas:

- c. Outstanding natural character area;
- d. Outstanding natural landscape; and
- e. Outstanding natural feature.

Amend

4. Activity status when compliance with SUB-S14.1.c-e not achieved: ~~Discretionary~~
Change to Non-Complying

If a site contains an area within an ONL or an ONF and the remainder of the site is outside those features then any building platform should be located **entirely outside** of an ONL or an ONF. There is no justification for building within them with all the associated disturbance via earthworks, vegetation clearance, access, etc. generating adverse effects and degrading their quality and values. The status must be **Non-complying** if compliance is not achieved. This better reflects the direction of RMA s.6(b) to treat it as a matter of national importance.

Add

There appear to be no standards if compliance with SUB-S14.1.c-e is not achieved. At the very least they should include

- a. The proposed location and design of the subdivision; and
- b. Integration of potential building platforms into the landscape including:
 - siting in relation to ridgelines
 - effect on indigenous vegetation
 - extent of earthworks and fill material
 - accessways and circulation,
 - mitigation planting
 - effect on landscape and amenity.

SUB-S16 Environmental benefit subdivision lot entitlement

Delete and amend

Table 1: Maximum number of lots that can be created from an individual Record of title: 5

Delete 5 and reduce to maximum of 3 EBL lots per title. The balance of the site should not be available for further applications for EBLs.

In the case of EBLs achieved through **restoration or enhancement planting** the number of EBLs per title should be reduced to a maximum of 2 given the level of uncertainty.

To enable the creation of multiple lots on an individual title seems to contradict the general purpose of the General Rural Zone to provide for primary production activities, particularly on productive land. It also seems to contradict GRUZ-P4 seeking to maintain low site coverage and density of buildings and structures.

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

Change status to Non-complying

EBS lots have been very popular in the past and have benefited the applicant but have not necessarily benefited the environment as they are supposed to do. Planting has frequently failed and not been maintained or monitored. If the areas to be protected under this provision are genuinely significant, compliance should not be difficult to achieve.

C. ECOSYSTEMS AND INDIGENOUS BIODIVERSITY

1. OBJECTIVES

Amend

ECO-O2 Maintenance of indigenous biodiversity

Adverse effects on indigenous biodiversity are managed to maintain its the extent and diversity of indigenous ecosystems and habitats. ~~in a way that provides for the social, economic and cultural well-being of people and communities.~~

The emphasis should be on maintaining indigenous biodiversity for its own intrinsic values, ie. having particular regard to the “intrinsic values of ecosystems” as per RMA s.7(d)

Amend

ECO-O3 Restoring and enhancing indigenous biodiversity ecosystems and habitats

The restoration and enhancement of indigenous biodiversity is promoted and enabled to reduce the threat status of threatened and at risk species.

This aligns with the objectives in the Northland Regional Policy Statement (NRPS)

2 POLICIES

ECO-P2 Indigenous biodiversity outside the coastal environment

This policy is supported.

ECO-P4 Restoring and enhancing indigenous biodiversity

Promote and enable activities that restore and enhance indigenous biodiversity, including by:

Add

4. Controlling the introduction or keeping of species with recognised pest potential.

This is a method the NRPS states should be included in district plans. It may include pest species, including terrestrial, aquatic and marine pest plants, animals and organisms, and some domestic cats and dogs.

3. RULES

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

All zones

- f. To allow for the construction of a single residential unit on an existing Record of Title, including essential associated on-site infrastructure and access, where the total clearance does not exceed 1,000m²

The 1000m² extent is not small scale and if it applies in a zone underlying an ONL such as the Brynderwyn Range it would be excessive and have significant adverse effects on its ecosystem. It is noted that rules on such clearance are more stringent in the Coastal Environment, Natural Character, ONFs, ONLs chapters and priority should be given to applying those rules.

Part 1 DEFINITIONS

In this section it would be useful to include definitions for:

Conservation covenant; Ecosystem, Environmental benefit lot, Ecosourcing; Outstanding Natural Feature, Outstanding Natural Landscape

Signed: *Catherine Hawley*

30 June 2025

for John and Catherine Hawley

We wish to be heard in support of our submission;