

Section 32 Report

Part 2

Natural Character

Prepared for the
Proposed Kaipara District Plan

Prior to Notification

28 April 2025

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ATTACHMENTS (TO THIS DOCUMENT)

- 1 Northland Regional Policy Statement
- 2 Proposed Northland Regional Plan

ABBREVIATIONS USED IN THIS REPORT

Kaipara District Council	KDC
Kaipara District Council Operative District Plan	KDP
National Environmental Standards	NES
National Policy Statements	NPS
New Zealand Coastal Policy Statement	NZCPS
National Policy Statement for Freshwater Management	NPS-FM
National Policy Statement for Electricity Transmission	NPS-ET
National Environmental Standard for Freshwater	NES-F
National Environmental Standard for Commercial Forestry	NES-CF
National Policy Statement for Renewable Electricity Generation	NPS-REG
Northland Regional Council	NRC
Northland Regional Policy Statement	NRPS
Proposed Kaipara District Plan	PDP
Proposed Regional Plan	PRP
Resource Management Act 1991	RMA
Section 32 of the RMA	s32

1. INTRODUCTION

1.1 Overview

1. This report details the pre-notification evaluation undertaken by Kaipara District Council (**KDC**) in relation to the Natural Character chapter for the Proposed Kaipara District Plan (**PDP**). The report has been prepared in accordance with the requirements of section 32 of the RMA (**s32**).
2. This report should be read in conjunction with the Section 32 Overview Report for the PDP which provides a detailed overview of the statutory context and the process to prepare the PDP.

1.2 Topic Description

3. As a matter of national importance, Council has responsibilities under section 6(a) of the Resource Management Act 1991 (**RMA**) to preserve the natural character of the margins of wetlands, lakes and rivers (**freshwater margins**), and protect them from inappropriate subdivision, use and development. This obligation is principally achieved through the Natural Character chapter of the PDP although the zone chapters also assist in achieving this through setback standards for buildings and structures to wetlands, lakes and rivers.
4. This section 32 evaluates the proposed Natural Character chapter. This section 32 does not include an evaluation of the PDP provisions to manage the natural character of the coastal environment which is addressed in the Coastal Environment section 32 report.
5. The Kaipara District is dissected by numerous rivers and streams. The most extensive is the Northern Wairoa River, Northland's largest river, with a catchment of 3,650 km² running from beyond the Kaipara District to the Kaipara Harbour. The rivers are of considerable value to the Kaipara District both for their natural values and as a natural resource.
6. Numerous freshwater lakes are found along the West Coast of the Kaipara District. The lakes have been formed in consolidated sand dunes and are of relatively recent geological origin. They are in three main locational groups – Kai Iwi, Redhill and Pouto. The lakes provide habitat for numerous indigenous fauna and flora species.
7. The Kaipara District contains approximately 2,000 hectares of wetlands, many of which are nationally and regionally important. In particular, these include wetland areas from Pouto through to the Ruawai Flats, and around the Kaipara Harbour. Wetland areas provide habitats for a range of estuarine and freshwater flora and fauna, including migrating waders and local resident bird species.
8. The freshwater margins are valued for their natural character, and support public and customary access and recreation
9. A range of land use activities can have adverse effects on the natural character of wetlands, lakes and river margins, including the construction and alteration of buildings or structures, earthworks, and

indigenous vegetation clearance. However, some activities have a functional or operational need to be located within freshwater margins. The Natural Character chapter seeks to manage the effects of activities within wetland, lake and river margins to help preserve and enhance the natural character values of freshwater margins. 'Wetland, lake and river margins' are defined in the PDP as being within 30m of wetlands, lakes (with some exclusions) and rivers with a bed greater than 3m and within 6m of lakes with bed of less than 3m and the Natural Character chapter manages activities within these margins.

1.3 Statutory Context

National Planning Standards

10. In accordance with Mandatory Direction 7.20 of the National Planning Standards, provisions protecting the natural character of wetlands, lakes and rivers and their margins must be located in the Natural Character chapter of District Plans.

National Policy Statements

11. Section 75(3)(a) of the RMA requires that district plans give effect to any National Policy Statement (NPS) and section 75(3)(b) of the RMA requires district plans to give effect to the New Zealand Coastal Policy Statement (**NZCPS**).
12. The NZCPS is of relevance to fresh waterbodies located within the coastal environment. Policy 13(1)(a) of the NZCPS requires subdivision, use and development to 'avoid' adverse effects on areas of the Coastal Environment identified as having outstanding natural character. In other areas of the Coastal Environment, Policy 13(1)(b) of the NZCPS requires that significant adverse effects on natural character area avoided and that other adverse effects are avoided, remedied or mitigated.
13. The NZCPS Policy 13 direction is given effect to through the Coastal Environment chapter of the PDP (not in the Natural Character chapter). This means activities within freshwater margins located in the coastal environment are also subject to the provisions in the Coastal Environment chapter.
14. The National Policy Statement for Freshwater Management 2020 (**NPS-FM**) seeks to ensure that natural and physical resources are managed in a way that prioritises:
 - a. First, the health and well-being of water bodies and freshwater ecosystems
 - b. Second, the health needs of people (such as drinking water)
 - c. Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

15. The Northland Regional Council (NRC) has the majority of obligations under the NPS-FM. The NRC is responsible for the control of discharges of contaminants to land and water as well as the use of land and water for the maintenance and enhancement of water quality.
16. Clause 3.5.(4) of the NPS-FM requires territorial authorities to include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.
17. The National Policy Statement for Renewable Electricity Generation 2011 (**NPS-REG**) requires district plans to include provisions to provide for the development, operation, maintenance, and upgrading of new and existing renewable electricity generation. District plans are required to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation and need to identify where potential sites and energy resources are located in the district (which may be in the margins of fresh waterbodies).
18. The National Policy Statement for Electricity Transmission 2008 (**NPS-ET**) states that the planning and development of the transmission system in rural environments should seek to avoid adverse effects on areas of high natural character.

National Environmental Standards

19. Under section 74(1)(f) of the RMA, a district plan must be prepared in accordance with any regulations, which includes any National Environmental Standards (NES). As part of recognising NES, Section 44A of the RMA requires local authorities to ensure plan rules do not conflict with or duplicate provisions in a NES.
20. The National Environmental Standard for Freshwater 2020 (**NES-F**) provides nationally consistent regulations for activities that may pose a risk to the health of freshwater and freshwater ecosystems. Some activities, including earthworks and indigenous vegetation clearance, in proximity to natural inland wetlands are regulated under the NES-F.
21. The NES-F provides limited direction to district plan. On the one hand Regulation 5 in the NES-F states that the NES-F does not deal with the functions of territorial authorities under section 31 of the RMA. This suggests that district plans are free to regulate activities that are also regulated in the NES-F (such as earthworks near wetlands) where this relates to the functions of territorial authorities under section 31 of the RMA. However, on the other hand Regulation 6 explicitly refers to district rules, stating that a district rule may be more stringent than the NES-F and can only be more lenient for limited set of activities (e.g. to provide for fish passage).
22. The National Environmental Standard for Commercial Forestry 2017 (**NES-CF**) contains regulations relating to various commercial forestry activities including afforestation, pruning, earthworks, river

crossings, forestry quarrying, harvesting, mechanical land preparation, replanting, and ancillary activities.

23. Of relevance to the natural character of rivers, streams and wetlands, the NES-CF includes regulations that specify setbacks from perennial rivers, wetlands and lakes greater than 0.25ha, outstanding freshwater bodies; and water bodies subject to a water conservation order for activities such as earthworks. Under Regulation 6(1) and (2) of the NES-CF, plan rules can be more stringent where the rule:
 - a. Gives effect to policies 11,13,15 and 22 of the NZCPS;or
 - b. Provides for the protection of:
 - i. Outstanding natural feature and landscapes from inappropriate use and development; or
 - ii. Significant natural areas.
24. These matters are not relevant considerations for the Natural Character chapter as they are addressed in the Coastal Environment, Natural Features and Landscapes, and Ecosystems and Indigenous Biodiversity chapters of the PDP respectively.

Northland Regional Policy Statement

25. The Northland Regional Policy Statement 2016 (**NRPS**) covers the management of natural and physical resources across the Northland Region. It provides the broad direction and framework for managing the region's natural and physical resources.
26. Section 75(3)(c) of the RMA requires district plans to 'give effect' to any RPS. The NRPS was made operative on 14 June 2018. The most relevant provisions of the NRPS for the Natural Character chapter are as follows:
 - a. Objective 3.1 Integrated catchment management
 - b. Objective 3.7 Regionally Significant Infrastructure
 - c. Objective 3.14 Natural character, outstanding natural features, outstanding natural landscapes and historic heritage
 - d. Objective 3.15 Active Management
 - e. Policy 4.6.1 Managing effects on the characteristics and qualities natural character, natural features and landscapes
 - f. Method 4.6.3 Statutory plans and strategies
 - g. Policy 4.7.1 Promote active management

- h. Policy 4.7.2 Support landowner and community efforts
 - i. Policy 4.7.3 Improving natural character
 - j. Policy 5.1.1 Planned and coordinated development
 - k. Policy 5.3.2 Benefits of regionally significant infrastructure
 - l. Policy 5.3.3 Managing adverse effects arising from regionally significant infrastructure
 - m. Method 5.3.4 Statutory plans and strategies
22. The full wording of these NRPS provision is included in Attachment 1.

Regional Plan for Northland

23. Section 75(4) of the RMA requires district plans to not be inconsistent with a regional plan. Generally regional and district plans manage activities for different purposes. However, there can be overlap for certain activities such as earthworks and vegetation clearance where both plans manage these activities but for different purposes. It is therefore important to be cognisant of regional plan provisions in developing the PDP provisions to ensure the provisions are integrated and to help avoid unnecessary overlaps or inconsistencies.
24. The Proposed Regional Plan for Northland (**PRP**) applies to the Northland Region and all appeals on the plan have now been resolved. The objectives and policies of the PRP of most relevance to the Natural Character chapter are as follows:
- a. Objective F.1.5 Enabling economic well-being
 - b. Objective F.1.6 Regionally significant infrastructure
 - c. Objective F.1.12 Natural character, outstanding natural features, historic heritage and places of significance to tangata whenua
 - d. Policy D.2.1 Rules for managing natural and physical resources
 - e. Policy D.2.7 Minor adverse effects arising from the establishment and operation of regionally significant infrastructure
 - f. Policy D.2.8 Maintenance, repair and upgrading of regionally significant infrastructure
 - g. Policy D.2.17 Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features.
25. The PRP also includes rules for earthworks and vegetation clearance within the margins of freshwater for the purpose of managing natural hazard risk and effects on freshwater health and ecology

(Earthworks – section C.8.3 and Vegetation clearance – section C.8.4) The full wording of these PRP provisions is included in Attachment 2.

Iwi and Hapu Management Plans

26. When preparing and changing district plans, Section 74(2A) of the RMA requires Council to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. At present there are two iwi planning documents lodged with Council, being:
 - a. Te Uri o Hau Kaitiakitanga o Te Taiao 2011; and,
 - b. Nga Ture mo Te Taiao o Te Roroa 2009.
27. The key issues in these two plans relevant to the Natural Character chapter are:
 - a. Develop, maintain and enhance a kaitiakitanga and conservation approach to the management of natural resources
 - b. Pollution of freshwater-ways, wetlands and aquifers is a continual source of concern
 - c. The ongoing damage and destruction to areas or sites with customary values which contribute to or form a part of a cultural landscape
 - d. Wāhi tapu and wāhi taonga such as urupā or tauranga waka and areas of sites of significance are often desecrated, cultural and spiritual values associated with such areas are often disregarded.

1.4 Other relevant information

History of the Operative District Plan

27. The KDP identifies six valued environments ("The overlays"). These included the Northern Wairoa river and Kai iwi lakes overlays. Chapter 4 of the KDP contains objectives and policies around the protection of natural character within the overlay areas. Chapter 6 contains objectives and policies for Ecological Areas and outcomes around the protection, management, and enhancement of the natural character of these areas. The provisions generally seek to preserve, enhance and restore the natural character values of waterbodies through controlling the proximity of land use activities. The KDP rules for setbacks from lakes, rivers and wetlands are in the zone chapters (12-15).
28. The KDP predates the NRPS and therefore the KDP's policy framework is not entirely consistent with the key directions in the NRPS in terms of avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects (including cumulative adverse effects) of subdivision, use and development on the characteristics and qualities of the natural character of freshwater bodies (Policy 4.6.1).

1.5 Scale and Significance of the effects

29. The s32 evaluation must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. In order to determine the scale and significance, the following criteria have been used:

TABLE 1: ASSESSMENT OF SCALE AND SIGNIFICANCE OF EFFECTS		
Criteria	Summary of effects	Evaluation (1 is low and 5 is high)
Reason for change	<ul style="list-style-type: none"> The KDP is being comprehensively reviewed, Natural Character is a topic included in the review. The PDP must give effect to higher order RMA documents, particularly the policy direction of the NRPS with regards to the protection of the natural character of freshwater margins. It is necessary to update the KDP to implement the National Planning Standards. 	3
Degree of shift from status quo	<ul style="list-style-type: none"> Natural character must now be provided for in the PDP in a separate chapter within the district wide matters section (as required by the National Planning Standards). Amendments have to also be made to give effect to key policies in the NRPS. 	2
Who and how many will be affected, geographic scale of effects	<ul style="list-style-type: none"> The Natural Characters chapter will apply across the Kaipara District within the margins of any wetland, lake or river that meets the definition of '<i>wetland, lake and river margins</i>'. All those with a lake, wetland or river on their property may be affected. 	3

Degree of impact on or interest from Māori	<ul style="list-style-type: none"> The proposed provisions will likely be of some interest to Māori given the cultural significance of waterbodies to Tangata Whenua/Mana Whenua. 	3
Timing and duration of effects	<ul style="list-style-type: none"> Effects will occur on an ongoing basis, into the future as development and land uses impact on natural character values. 	3
Type of effect	<ul style="list-style-type: none"> Implementing the NRPS direction for the natural character of freshwater margins, will likely result in positive effects on amenity and character of the natural environment. This may result in some greater restrictions on the ability of landowners to utilise their land for social or economic purposes for activities that adversely effect the natural character of freshwater margins (such as vegetation clearance and earthworks). 	2
Degree of risk or uncertainty	<ul style="list-style-type: none"> There is a low level of risk and uncertainty as there is a clear higher-level statutory direction for managing the natural character of freshwater margins, and the National Planning Standards set clear requirements for the scope of the Natural Character chapter. 	2
Total (out of 35):		18

30. Overall, the scale and significance of the effects anticipated from the provisions in the Natural Character chapter as assessed as being low-moderate. Accordingly, the level of detail in this evaluation report is appropriate for the level of effects anticipated.

2. Summary of Advice Received from Iwi

31. S32 requires evaluation reports to summarise all advice concerning the proposal received from iwi authorities under Clauses 3(1)(d) and 4A of Schedule 1 of the RMA. The s32 evaluation reports must summarise the response to the advice received, including any provisions of the proposal that are intended to give effect to the advice. The table below summarises the consultation undertaken and advice received from iwi authorities in relation to the Natural Character chapter.

TABLE 2: SUMMARY OF ADVICE RECEIVED FROM IWI

Details of the consultation process	Summary of advice concerning the proposal received from iwi authorities	Summary of the response to the advice received
Engagement with Tangata Whenua on the content of new district plan - 2021.	<ul style="list-style-type: none"> Align objectives, policies, and methods with the respective Iwi Management Plans and the Te Ao Māori/Māori world view. Update provisions for Papakāinga Development to support and encourage whānau to return to their whenua. Support the development of Māori landholdings to ensure economically sustainable and resilient outcomes for landowners. Include mechanisms to ensure consultation and/or a cultural assessment is undertaken with Tangata Whenua to protect sites and areas of significance to Māori. 	Council considered these points and agreed to include provisions addressing these issues. The Exposure Draft District Plan (2022) included draft objectives and provisions that address these issues, which received feedback as detailed below.
Te Uri o Hau and Te Roroa Feedback on the Exposure Draft District Plan (2022)	Questioned the absence of provisions on natural character of waterbodies outside the coastal environment. Advocated for this to be separate from the coastal environment chapter.	The inclusion of the Natural Character chapter (which is standalone from the Coastal Environment chapter) addresses this.

3. Evaluation of Objectives

**TABLE 4: RELEVANCE OF PROPOSED
NATURAL CHARACTER OBJECTIVES WITH
PART 2 OF THE RMA**

Proposed Natural Character Objectives	
<u>NATC-O1</u>	
5(2)(a)	✓
5(2)(b)	✓
5(2)(c)	✓
6(a)	✓
6(e)	✓
7(a)	✓
7(aa)	✓
7(b)	✓
7(c)	✓
7(d)	✓
7(f)	✓
7(g)	✓

TABLE 4: RELEVANCE OF PROPOSED NATURAL CHARACTER OBJECTIVES WITH PART 2 OF THE RMA

Proposed Natural Character Objectives		
		<u>NATC-O1</u>
	5(2)(a)	✓
	5(2)(b)	✓
	5(2)(c)	✓
	6(a)	✓
	6(e)	✓
	7(a)	✓
	7(aa)	✓
	7(b)	✓
	7(c)	✓
	7(d)	✓
	7(f)	✓
	7(g)	✓

TABLE 4: RELEVANCE OF PROPOSED NATURAL CHARACTER OBJECTIVES WITH PART 2 OF THE RMA

Proposed Natural Character Objectives			
		<u>NATC-O1</u>	
	5(2)(a)	✓	
	5(2)(b)	✓	
	5(2)(c)	✓	
	6(a)	✓	
	6(e)	✓	
	7(a)	✓	
	7(aa)	✓	
	7(b)	✓	
	7(c)	✓	
	7(d)	✓	
	7(f)	✓	

	7(g)	✓	
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3.1 Appropriateness in Terms of Purpose of RMA

32. Council must evaluate, in accordance with s32(1)(a) of the RMA, the extent to which each objective proposed in the PDP is the most appropriate way to achieve the purpose of the RMA.
33. Table 3 sets out the single objective proposed for the Natural Character chapter:

TABLE 3: S32 ASSESSMENT OF PROPOSED NATURAL CHARACTER OBJECTIVES
Proposed Natural Character Objective
<p>Preservation and protection of natural character</p> <p>NATC-O1 The natural character of wetland, lake and river margins is preserved and protected from inappropriate subdivision, use and development.</p>

34. Part 2 of the RMA outlines the purpose and principles of the RMA, and Table 4 identifies the relevant sections of Part 2 of the RMA for the single objective in the Natural Character chapter.

Section 5 RMA

35. With regards to Section 5, NATC-O1 provides for the use and development of the wetland, lake and river margins to meet the needs of people and communities to provide for their social, economic and cultural wellbeing, whilst balancing this against the preservation of wetland, lake and river margins for future generations.
36. In achieving this, all those exercising functions and powers under the RMA are required to:
- Recognise and provide for matters of national importance in section 6;
 - Have particular regard to other matters listed in section 7; and
 - Take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) under section 8.
37. With regards to section 5, NATC-O1 provides for subdivision, use and development to meet the needs of people and communities to provide for their social, economic and cultural wellbeing, while balancing this against the protection of the natural character of freshwater margins for future generations (including its life-supporting capacity and protection from adverse effects).
38. The following sections evaluate how NATC-O1 achieves the relevant clauses in sections 6, 7 and 8 of the RMA, and therefore meet the sustainable management purpose under section 5 of the RMA.

Section 6 RMA

39. The key section 6 matters are:

6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;

6(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

40. Section 6(a) is of primary relevance and specifically identifies the need to preserve the natural character of wetland, lake and river margins and protect them from inappropriate subdivision, use and development. NATC-O1 reflects this direction.

41. Section 6(e) of the RMA requires consideration of the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga. The objective recognises this by providing for use and development that is consistent with and does not compromise the characteristics and qualities of the natural character - which may include use and development which supports the relationship of Māori and their culture and traditions.

Section 7 RMA

42. The following section 7 matters are directly relevant to the Natural Character chapter and have been taken into account while drafting the objective:

- *7(a) kaitiakitanga:*
- *7(aa) the ethic of stewardship*
- *7(b) the efficient use and development of natural and physical resources;*
- *7(c) the maintenance and enhancement of amenity values; and*
- *7(f) maintenance and enhancement of the quality of the environment*

48. Sections 7(b) and (c) are of primary relevance as they require the efficient use and development of natural and physical resources and the maintenance and enhancement of amenity values, respectively. The objective contributes to achieving section 7(b) of the RMA because it provides for the development, use and subdivision while protecting natural character of freshwater margins. The objective contributes to achieving Sections 7(a), (aa), (c) and (f) as it supports the protection, maintenance and enhancement of natural character which support kaitiakitanga and stewardship, and contributed to the maintenance and enhancement of amenity values and more generally the quality of the environment.

Section 8 RMA

43. Section 8 of the RMA requires that all persons exercising functions and powers under it take into account the principles of the Treaty of Waitangi. The principles have been considered in the preparation of the objective.

3.2 Conclusion

44. Having assessed the proposed objective against Part 2 of the RMA it is considered that it is the most appropriate way to achieve the purpose of the RMA.

4. Evaluation of the Provisions

4.1 Introduction

45. S32 assessments must determine whether the proposed provisions are the most appropriate way to achieve the proposed objectives. In this instance, the Natural Character chapter proposes one objective and this s32 assessment must assess whether the proposed provisions are the most appropriate to achieve the proposed objective. This must include the identification of alternatives, and cost benefit analysis of the economic, social, environmental and cultural effects of the provisions including whether opportunities for economic growth and employment are reduced or increased. The risk of acting or not acting where uncertain information exists must also be considered.
46. The Natural Character chapter proposes a number of new provisions, including policies, rules, and standards. The following sections of this report will identify the range of options available, and the efficiency and effectiveness of the preferred provisions.

4.2 Reasonably practicable options

47. In order to identify other reasonably practicable options, the Council has undertaken the following:
- Reviewed other relevant district plan provisions
 - Received feedback from elected members
 - Collated feedback from discussions with Iwi
 - Collated feedback on the Exposure Draft District Plan (2022).
48. The following broad options have been identified and assessed with regard to the natural character of freshwater margins.
- **Option 1 – Status Quo:** Provisions for setbacks from waterbodies located within the zone chapters.
 - **Option 2 – Proposed approach:** A separate Natural Character chapter focused on preserving and protecting the natural character of freshwater margins. This approach ensures

compliance with planning standards and alignment with the direction of the NRPS. The extent of margins is defined by a new definition of wetland, lakes and river margins.

- The preferred option is Option 2 because:
 - It gives effect to Part 2 of the RMA and NRPS direction.
 - The Natural Character chapter provisions will provide for an appropriate level of earthworks, indigenous vegetation clearance and development within wetland, lake and river margins. Where compliance cannot be achieved, resource consent is required to enable an appropriate level of scrutiny to be applied to proposals.
49. Option 1 is not further evaluated because it does not appropriately give effect to higher order policy direction and nor is it consistent with the direction of the National Planning Standards.

4.3 Evaluation of proposed provisions

22. Provisions of Option 2 (the preferred option) have been evaluated further in tables 5 and 6 below. These provisions have been established following a cascade of objective, policy and rule as detailed in table 5.

TABLE 5: Cascade of proposed provisions	
Option 2 (preferred option)	Objective: NATC-O1 – Preservation and protection of natural character The natural character of wetland, lake and river margins is preserved, and protected from inappropriate subdivision, use and development.
	Policies: NATC-P1, NATC-P2, NATC-P3, NATC-P4, and NATC-P5
	Rules: NATC-R1, NATC-R2, NATC- R3, and NATC-R4

TABLE 6 : EVALUATION OF PROVISIONS – Option 2 Proposed approach

Benefits	<p>Economic: Acknowledging that some activities have an operational or functional need to locate in freshwater margins will result in reduced consenting costs and economic benefits for those activities. Benefit may arise through a more simplified and concise approach to the control of freshwater margins. A range of activities are permitted in the rules, reducing the demand and cost of consent applications and processing. The precise definition of the margin widths reduces any uncertainty and therefore also assists to reduce compliance costs.</p> <p>Social: The preservation and protection of the natural character of freshwater margins and the provision for their restoration and enhancement will ensure that they will be retained for the community and future generations to enjoy, thereby having social wellbeing benefits.</p> <p>Environmental: The proposed provisions will have positive impacts on the natural character of wetland, lake and river margins.</p> <p>Cultural: These provisions have cultural wellbeing benefits as the preservation and protection of natural character will help to provide for the relationship of Māori with waterbodies, a taonga, and better enable tikanga Māori and kaitiakitanga.</p>
Costs	<p>Economic: There will be administration costs with the proposed provisions including time and cost where resource consents are needed for activities in freshwater margins. However, development controls will not impose undue costs on landowners, because the margins are defined as relatively narrow strips of land adjacent to waterbodies.</p> <p>Social: No direct or indirect social costs.</p> <p>Environmental: There may be some adverse effects, but they will be less than significant. (NATC-P1 requires significant adverse effects to be avoided, and all other adverse effects to be avoided, remedied or mitigated).</p> <p>Cultural: No direct or indirect cultural costs have been identified.</p>

Opportunities for economic growth	Any economic growth benefits are likely to be negligible.
Opportunities for employment	Any employment benefits are likely to be negligible.
Certainty and sufficiency of information	It is considered that there is sufficient information available to act as proposed.
Risk of acting or not acting if there is uncertainty or insufficient information.	Not applicable.
Effectiveness in achieving the objective(s)	The proposed provisions are effective as they recognise and provide appropriate protection of the natural character of freshwater margins, with relevant thresholds for the margins being identified through a definition for wetland, lake and river margins. This offers increased clarity and certainty for developers and surrounding community.
Efficiency in achieving the objective(s)	The proposed provisions are an efficient method of achieving the PDP Natural Character objective. The provisions are a concise approach to the protection of wetland, lake and river margins and give effect to the National Planning Standards and NRPS.

4.4 Reasons for deciding on the provisions

50. The proposed policies, rules and standards in the Natural Character chapter are the most appropriate way to achieve the objective. They provide for a limited set of activities to enable people and communities to provide for their social, economic, and cultural well-being while preserving the natural character of freshwater margins. The provisions also encourage restoration and enhancement to improve the natural character of freshwater margins .
51. The proposed provisions are considered to be the most efficient and effective means of achieving the objective as together they will:
- Give effect to higher order statutory documents, including the NRPS
 - Combined with the other chapters giving effect to section 6 of the RMA, ensure amenity values and qualities of surrounding environments are maintained with appropriate rules and standards that apply to the margins of wetlands, lakes and rivers
 - Provide for an appropriate level of earthworks, indigenous vegetation clearance and development within the margins of wetlands, lakes and rivers
 - Ensure a suitable level of scrutiny can be applied when resource consent is sought for activities
 - Enable the Council to effectively administer its District Plan and to monitor the outcomes of the proposed provisions in a clear and consistent manner.

5. CONCLUSION

52. Pursuant to s32 of the RMA, the proposed Natural Character objective has been analysed against Part 2 of the RMA and is considered to be the most appropriate way to achieve the purpose of the RMA.
53. The proposed provisions have been compared against reasonably practicable options. The proposed provisions are considered to be the most appropriate way to achieve the proposed objective.

6. Attachments

6.1 ATTACHMENT 1 – Northland Regional Policy statement relevant provisions

Northland Regional Council Regional Policy Statement (2016)	
Objectives	
3.1 Integrated catchment management	Integrate the management of freshwater and the subdivision, use and development of land in catchments to enable catchment-specific objectives for fresh and associated coastal water to be met.
3.7 Regionally significant infrastructure	Recognise and promote the benefits of regionally significant infrastructure, (a physical resource), which through its use of natural and physical resources can significantly enhance Northland's economic, cultural, environmental and social wellbeing.
3.14 Natural character, outstanding natural features, outstanding natural landscapes and historic heritage	Identify and protect from inappropriate subdivision, use and development; (a) The qualities and characteristics that make up the natural character of the coastal environment, and the natural character of freshwater bodies and their margins; (b) The qualities and characteristics that make up outstanding natural features and outstanding natural landscapes; (c) The integrity of historic heritage.
3.15 Active management	Maintain and / or improve; (a) The natural character of the coastal environment and fresh water bodies and their margins; (b) Outstanding natural features and outstanding natural landscapes; (c) Historic heritage; (d) Areas of significant indigenous vegetation and significant habitats of indigenous fauna (including those within estuaries and harbours); (e) Public access to the coast; and (f) Fresh and coastal water quality by supporting, enabling and positively recognising active management arising from the efforts of landowners, individuals, iwi, hapū and community groups.
Policies	
4.6.1 Policy – Managing effects on the characteristics and qualities natural character, natural features and landscapes	<p>(1) In the coastal environment:</p> <p>a) Avoid adverse effects of subdivision use, and development on the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes.</p> <p>b) Where (a) does not apply, avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of subdivision, use and development on natural character, natural features and natural landscapes. Methods which may achieve this include:</p> <p>(i) Ensuring the location, intensity, scale and form of subdivision and built development is appropriate having regard to natural elements, landforms and processes, including vegetation patterns, ridgelines, headlands, peninsulas, dune systems, reefs and freshwater bodies and their margins; and</p>

	<p>(ii) In areas of high natural character, minimising to the extent practicable indigenous vegetation clearance and modification (including earthworks / disturbance, structures, discharges and extraction of water) to natural wetlands, the beds of lakes, rivers and the coastal marine area and their margins; and</p> <p>(iii) Encouraging any new subdivision and built development to consolidate within and around existing settlements or where natural character and landscape has already been compromised.</p> <p>(2) Outside the coastal environment avoid significant adverse effects and avoid, remedy or mitigate other adverse effects (including cumulative adverse effects) of subdivision, use and development on the characteristics and qualities of outstanding natural features and outstanding natural landscapes and the natural character of freshwater bodies. Methods which may achieve this include:</p> <ul style="list-style-type: none"> a) In outstanding natural landscapes, requiring that the location and intensity of subdivision, use and built development is appropriate having regard to, natural elements, landforms and processes, including vegetation patterns, ridgelines and freshwater bodies and their margins; b) In outstanding natural features, requiring that the scale and intensity of earthworks and built development is appropriate taking into account the scale, form and vulnerability to modification of the feature; c) Minimising, indigenous vegetation clearance and modification (including earthworks / disturbance and structures) to natural wetlands, the beds of lakes, rivers and their margins. <p>(3) When considering whether there are any adverse effects on the characteristics and qualities of the natural character, natural features and landscape values in terms of (1)(a), whether there are any significant adverse effects and the scale of any adverse effects in terms of (1)(b) and (2), and in determining the character, intensity and scale of the adverse effects:</p> <ul style="list-style-type: none"> a) Recognise that a minor or transitory effect may not be an adverse effect; b) Recognise that many areas contain ongoing use and development that: (i) Were present when the area was identified as high or outstanding or have subsequently been lawfully established (ii) May be dynamic, diverse or seasonal; c) Recognise that there may be more than minor cumulative adverse effects from minor or transitory adverse effects; and d) Have regard to any restoration and enhancement on the characteristics and qualities of that area of natural character, natural features and/or natural landscape.
<p>4.7.1 Policy – Promote active management</p>	<p>In plan provisions and the resource consent process, recognise and promote the positive effects of the following activities that contribute to active management:</p> <ul style="list-style-type: none"> a) Pest control, particularly where it will complement an existing pest control project / programme; b) Soil conservation / erosion control; c) Measures to improve water quality in parts of the coastal marine area where it has deteriorated and is having significant adverse effects, or in freshwater bodies targeted for water quality enhancement; d) Measures to improve flows and / or levels in over allocated freshwater bodies; e) Re-vegetation with indigenous species, particularly in areas identified for natural character improvement;

	<p>f) Maintenance of historic heritage resources (including sites, buildings and structures);</p> <p>g) Improvement of public access to and along the coastal marine area or the margins of rivers or lakes except where this would compromise the conservation of historic heritage or significant indigenous vegetation and / or significant habitats of indigenous fauna;</p> <p>h) Exclusion of stock from waterways and areas of significant indigenous vegetation and / or significant habitats of indigenous fauna;</p> <p>i) Protection of indigenous biodiversity values identified under Policy 4.4.1, outstanding natural character, outstanding natural landscapes or outstanding natural features either through legal means or physical works;</p> <p>j) Removal of redundant or unwanted structures and / or buildings except where these are of historic heritage value or where removal reduces public access to and along the coast or lakes and rivers;</p> <p>k) Restoration or creation of natural habitat and processes, including ecological corridors in association with indigenous biodiversity values identified under Policy 4.4.1, particularly wetlands and / or wetland sequences;</p> <p>l) Restoration of natural processes in marine and freshwater habitats.</p>
4.7.2 Policy – Supporting landowner and community efforts	Support landowners, iwi, hapū, and community efforts to actively manage or improve key aspects of the environment especially where there is willing collaboration between participants and those efforts are directed at one or more of the activities in Policy 4.7.1.
4.7.3 Policy – Improving natural character	<p>Except where in conflict with established uses promote rehabilitation and restoration of natural character in the manner described in Policy 4.7.1 in the following areas:</p> <p>(a) Wetlands, rivers, lakes, estuaries, and their margins;</p> <p>(b) Undeveloped or largely undeveloped natural landforms between settlements, such as coastal headlands, peninsulas, ridgelines, dune systems;</p> <p>(c) Areas of high natural character;</p> <p>(d) Land adjacent to outstanding natural character areas, outstanding natural features, and outstanding natural landscapes; Regional Policy Statement for Northland Page 82 of 178 (e) (f) Remnants of indigenous coastal vegetation particularly where these are adjacent to water or can be linked to establish or enhance ecological corridors; and The areas or values identified in Policy 4.4.1 (protecting significant areas and species).</p>
5.1.1 Policy – Planned and coordinated development	<p>Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:</p> <p>(a) Is guided by the ‘Regional Form and Development Guidelines’ in Appendix 2;</p> <p>(b) Is guided by the ‘Regional Urban Design Guidelines’ in Appendix 2 when it is urban in nature;</p> <p>(c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;</p> <p>(d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;</p> <p>(e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;</p> <p>(f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary</p>

	<p>production on land with highly versatile soils¹⁰, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and</p> <p>(g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.</p> <p>(h) Is or will be serviced by necessary infrastructure.</p> <p>Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.</p>
5.3.2 Policy – Benefits of regionally significant infrastructure	<p>Particular regard shall be had to the significant social, economic, and cultural benefits of regionally significant infrastructure when considering and determining resource consent applications or notices of requirement for regionally significant infrastructure.</p>
5.3.3 Policy – Managing adverse effects arising from regionally significant infrastructure	<p>(1) Allow adverse effects arising from the establishment and operation of new regionally significant infrastructure and the re-consenting of existing operations where:</p> <p>(a) The proposal is consistent with Policies 4.4.1(1), 4.4.1(2), 4.6.1(1)(a), 4.6.1(1)(b), 4.6.1(2) and 4.6.2 (1);</p> <p>(b) The proposal does not result in established water quality limits or environmental flows and / or levels being exceeded or otherwise could lead to the over-allocation of a catchment (refer to Policy 4.1.1);</p> <p>(c) Damage to and / or loss of the relationship of iwi with ancestral sites, sites of significance, wāhi tapu, customary activities and / or taonga is avoided or otherwise agreed to by the affected iwi or hapū; and</p> <p>(d) In addition to the matters outlined in 1) (a) – (c) above, other adverse effects are avoided, remedied or mitigated to the extent that they are no more than minor.</p> <p>(2) Allow adverse effects arising from the maintenance and upgrading of established regionally significant infrastructure wherever it is located, where:</p> <p>(a) The adverse effects whilst the maintenance or upgrading is being undertaken are not significant; and</p> <p>(b) The adverse effects after the conclusion of the maintenance or upgrading are the same or similar to before the activity being undertaken.</p> <p>(3) When managing the adverse effects of regionally significant infrastructure decision makers will give weight to:</p> <p>(a) The benefits of the activity in terms of Policy 5.3.2;</p> <p>(b) Whether the activity must be recognised and provided for as directed by a national policy statement;</p> <p>(c) Any constraints that limit the design and location of the activity, including</p>

	<p>any alternatives that have been considered which have proven to be impractical, or have greater adverse effects;</p> <p>(d) Whether the proposal is for regionally significant infrastructure which is included in Schedule 1 of the Civil Defence Emergency Management Act as a lifeline utility and meets the reasonably foreseeable needs of Northland.</p> <p>(e) The extent to which the adverse effects of the activity can be practicably reduced. Such an assessment shall also take into account appropriate measures, when offered, to provide positive effects, either within the subject site or elsewhere provided that the positive effects accrue to the community of interest and / or resource affected; and</p> <p>(f) Whether a monitoring programme for any identified significant adverse effects with unknown or uncertain outcomes could be included as a condition of consent and an adaptive management regime (including modification to the consented activity) is used to respond to such effects.</p> <p>(g) Whether the infrastructure proposal helps to achieve consolidated development and efficient use of land.</p>
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6.2 ATTACHMENT 2- Proposed Northland Regional Plan relevant provisions

Proposed Regional Plan for Northland – February 2024		
F.1.5	Enabling economic well-being	Northland's natural and physical resources are managed in a way that is attractive for business and investment that will improve the economic well-being of Northland and its communities.
F.1.6	Regionally significant infrastructure	Recognise the national, regional and local benefits of regionally significant infrastructure and renewable energy generation and enable their effective development, operation, maintenance, repair, upgrading and removal.
D.2.5	Benefits of regionally significant infrastructure	Particular regard must be had to the national, regional and locally significant social, economic, and cultural benefits of regionally significant infrastructure
F.1.12	Natural character, outstanding natural features, historic heritage and places of significance to tāngata whenua	<p>Protect from inappropriate use and development:</p> <ol style="list-style-type: none"> 1) the characteristics, qualities and values that make up: <ol style="list-style-type: none"> a) outstanding natural features in the coastal marine area and in fresh waterbodies, and b) areas of outstanding and high natural character in the coastal marine area and in fresh waterbodies within the coastal environment, and c) natural character in fresh waterbodies outside the coastal environment, and d) outstanding natural landscapes in the coastal marine area, and 2) the integrity of historic heritage in the coastal marine area, and 3) the values of places of significance to tāngata whenua in the coastal marine area and freshwater bodies.
D.2.1	Rules for managing natural and physical resources	<p>Include rules to manage the use, development and protection of natural and physical resources that:</p> <ol style="list-style-type: none"> 1) are the most efficient and effective way of achieving national and regional resource management objectives, and 2) are as internally consistent as possible, and 3) use or support good management practices, and 4) minimise compliance costs, and 5) enable use and development that complies with the Regional Policy Statement for Northland and the objectives of this Plan, and 6) focus on effects and, where suitable, use performance standards.
D.2.7	Minor adverse effects arising from the establishment and operation of regionally significant infrastructure	<p>Enable the establishment and operation (including consenting) of regionally significant infrastructure by allowing any minor adverse effects providing:</p> <ol style="list-style-type: none"> 1) The regionally significant infrastructure proposal is consistent with: <ol style="list-style-type: none"> a) all policies in Section D.1 Tāngata whenua, and b) Policy D.2.16 Managing adverse effects on historic heritage, and c) Policy D.2.17 Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features, and d) Policy D.2.18 Managing adverse effects on indigenous biodiversity, and

	<p>2) the regionally significant infrastructure proposal will not likely result in over-allocation having regard to the allocation limits in H.4.3 Allocation limits for rivers, and</p> <p>3) other adverse effects arising from the regionally significant infrastructure are avoided, remedied, mitigated or offset to the extent they are no more than minor.</p>												
D.2.8 Maintenance, repair and upgrading of regionally significant infrastructure	<p>Enable the maintenance and upgrading of established regionally significant infrastructure wherever it is located by allowing adverse effects, where:</p> <p>1) the adverse effects whilst the maintenance or upgrading is being undertaken are not significant or they are temporary or transitory, and</p> <p>2) the adverse effects after the conclusion of the maintenance or upgrading are the same, or similar, to those arising from the regionally significant infrastructure before the activity was undertaken.</p>												
D.2.17 Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features	<p>Manage the adverse effects of activities on natural character, outstanding natural landscapes and outstanding natural features by: 1) avoiding adverse effects of activities as follows:</p> <p>Table 17: Adverse effects to be avoided</p> <table><tr><th>Place / value</th><th>Location of the place</th><th>Effects to be avoided</th></tr><tr><td>Areas of outstanding natural character Outstanding natural features Outstanding natural landscapes</td><td>Coastal marine area and fresh water bodies in the coastal environment.</td><td>Adverse effects on the characteristics, qualities and values that contribute to make the place outstanding.</td></tr><tr><td>Natural character (incl. high natural character) Other natural features and landscapes</td><td>The coastal marine area and fresh water bodies in the coastal environment.</td><td>Significant adverse effects on the characteristics, qualities and values that contribute to natural character or other natural features and landscapes.</td></tr><tr><td>Natural character Outstanding natural features Outstanding natural landscapes</td><td>Fresh water bodies outside the coastal environment.</td><td>Significant adverse effects on the characteristics, qualities and values that contribute to natural character or which make the natural character or landscape outstanding.</td></tr></table> <p>2) recognising that, in relation to natural character in water bodies and the coastal environment (where not identified as outstanding natural character), appropriate methods of avoiding, remedying or mitigating adverse effects may include:</p> <p>a) ensuring the location, intensity, scale and form of activities is appropriate having regard to natural elements and processes, and</p> <p>b) in areas of high natural character in the coastal environment, minimising to the extent practicable indigenous vegetation clearance and modification (seabed and foreshore disturbance, structures, discharges of contaminants), and</p> <p>c) in fresh water, minimising to the extent practicable modification (disturbance, structures, extraction of water and discharge of contaminants), and</p>	Place / value	Location of the place	Effects to be avoided	Areas of outstanding natural character Outstanding natural features Outstanding natural landscapes	Coastal marine area and fresh water bodies in the coastal environment.	Adverse effects on the characteristics, qualities and values that contribute to make the place outstanding.	Natural character (incl. high natural character) Other natural features and landscapes	The coastal marine area and fresh water bodies in the coastal environment.	Significant adverse effects on the characteristics, qualities and values that contribute to natural character or other natural features and landscapes.	Natural character Outstanding natural features Outstanding natural landscapes	Fresh water bodies outside the coastal environment.	Significant adverse effects on the characteristics, qualities and values that contribute to natural character or which make the natural character or landscape outstanding.
Place / value	Location of the place	Effects to be avoided											
Areas of outstanding natural character Outstanding natural features Outstanding natural landscapes	Coastal marine area and fresh water bodies in the coastal environment.	Adverse effects on the characteristics, qualities and values that contribute to make the place outstanding.											
Natural character (incl. high natural character) Other natural features and landscapes	The coastal marine area and fresh water bodies in the coastal environment.	Significant adverse effects on the characteristics, qualities and values that contribute to natural character or other natural features and landscapes.											
Natural character Outstanding natural features Outstanding natural landscapes	Fresh water bodies outside the coastal environment.	Significant adverse effects on the characteristics, qualities and values that contribute to natural character or which make the natural character or landscape outstanding.											

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| | <p>3) recognising that, in relation to outstanding natural features in water bodies outside the coastal environment, appropriate methods of avoiding, remedying or mitigating adverse effects may include:</p> <ul style="list-style-type: none"> a) requiring that the scale and intensity of bed disturbance and modification is appropriate, taking into account the feature's scale, form and vulnerability to modification of the feature, and b) requiring that proposals to extract water or discharge contaminants do not significantly adversely affect the characteristics, qualities and values of the outstanding natural feature, and <p>4) recognising that uses and development form part of existing landscapes, features and waterbodies and have existing effects</p> |
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