

Significant natural heritage values

How can we improve the management of significant natural and historic heritage in our regional plans? This is a summary of our initial ideas.

What are significant natural and historic heritage values?

This topic focusses on managing activities within water bodies (in the coastal marine area and in freshwater bodies) that impact on:

- Outstanding and high natural character.
- Outstanding natural features and landscapes.
- Historic heritage.
- Significant indigenous biodiversity (coastal marine area only).

These resources are included in the list of matters of national importance in Section 6 of the Resource Management Act 1991 (RMA) and are managed by regional plans.

Matters not included in this topic:

- Section 6 RMA matters on 'land' – covered by district plans;
- Significant indigenous biodiversity in freshwater bodies – covered in the water quality and water quantity topics;
- The *identification* of significant indigenous biodiversity in the coastal marine area, which is covered in the marine ecosystems and biodiversity topic;
- Public access within the coastal marine area – covered by the coastal water space topic; and
- Public access to and along freshwater bodies – managed by district plans.

The below diagram illustrates how regional and district council functions assist with managing the effects of activities on significant natural and historic values (please note although the diagram uses mapping from the Proposed Regional Policy Statement it does not represent any particular place or area).

Overview of the regional plans review

This is one of 10 summary reports for the review of Northland's regional plans.

Northland has three regional plans:

- Regional Air Quality
- Regional Coastal Plan
- Regional Water and Soil Plan

We are required to review the regional plans every 10 years. We have reviewed all three regional plans at the same time.

The review is the first step to prepare a new regional plan. The review looks at:

- What we know about our resources and their use;
- Lessons learnt from administering the regional plans
- Current legal and policy drivers; and
- Feedback from key stakeholders and tangata whenua

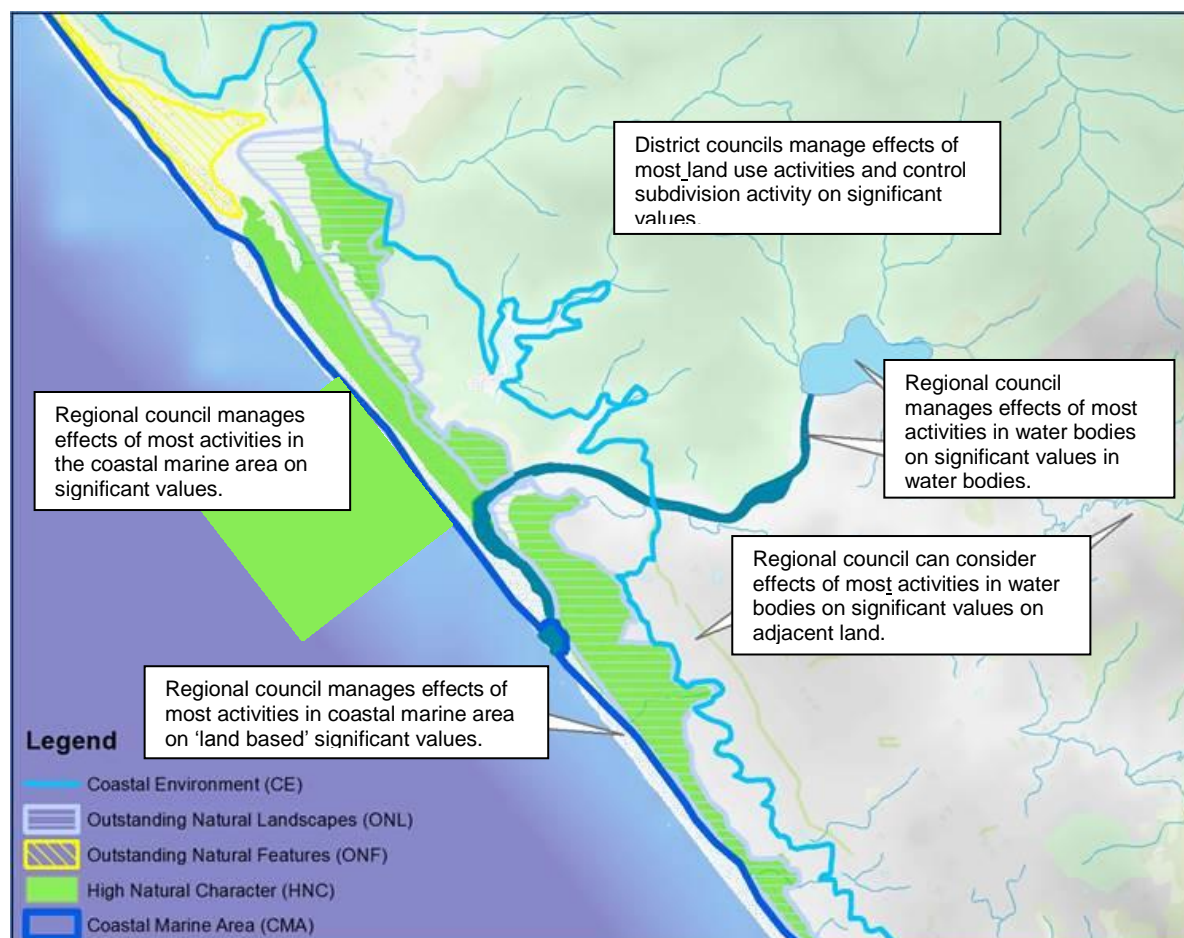
The review concludes with options or recommendations for the new regional plan.

We've split the review up into 10 topics:

- Water quality
- Water quantity
- Marine ecosystems and biodiversity
- Coastal water space
- Air quality
- Significant natural heritage values
- Māori participation in resource management
- Natural hazards
- Infrastructure and mineral extraction
- Hazardous substances

For more information go to - nrc.govt.nz/newregionalplan

Diagram showing district and regional council functions and how they assist in managing effects of activities on significant values.



With this in mind, this topic will look at:

- How significant natural and historic heritage values are identified;
- Impacts of use and development on significant natural and historic heritage in the coastal marine area and freshwater bodies; and
- The management of significant natural and historic heritage values across planning/administrative boundaries.

What needs to change in the regional plans?

1 Identification and protection of significant natural and historic heritage from activities within the coastal marine area

The current approach to managing significant values in the coastal marine area is through the use of Marine 1 (Protection) Management Areas. Marine 1 Management Areas are a 'catch-all' way to identify and protect cultural values/customary rights, ecological values, natural features/landscape values and historic heritage. These are all matters of national importance outlined in Section 6 of the RMA.

In total there are 24 Marine 1 Management Areas listed in the Regional Coastal Plan (coastal plan) and these are included in regional coastal plan maps (shown on the overview map below). The total extent of Marine 1 Management Areas equates to approximately 137,909 hectares or 1379 kilometers square. This is about 7.9% of the total coastal marine

- Outstanding or significant coastal landforms.

Each Marine 1 Management Areas is described in Appendix 6 of the Regional Coastal Plan and a brief summary of its values is provided.

1.1 Issues

1.1.1. Implementation issues with MM1 areas

Since Marine 1 Management Areas were identified it has become apparent that the application of creating a broad-brush 'catch-all' zone has been problematic:

- Typically, the values identified in each Marine 1 Management Areas are fairly generic and repetitive with little detail on the features themselves. A number of Marine 1 Management Areas are also just reflective of existing ecological protection (for example, overlaying marine reserves created by the Marine Reserves Act 1971). In these instances it is difficult to determine whether other values have been assessed rigorously.
- As the rules for Marine 1 Management Areas are particularly strict (for example, a number of activities are prohibited) large areas are subject to a blanket presumption against development. Where an assessment of effects is required as part of a resource consent application, extra cost may be incurred as the assessment will need to consider effects on all the values within the Marine 1 Management Areas. This is not helped by the fact that values are not well defined or explained within the areas.
- Also, no Marine 1 Management Areas has been identified exclusively on the grounds of natural feature/landscape, cultural or historic heritage values – only in association with ecological values. These other values are only considered in consenting through policy (as opposed to being mapped and subject to activity specific rules).

1.1.2. Legislative changes

There have been some significant legislative changes since the Marine 1 Management Areas came into being:

- The New Zealand Coastal Policy Statement (coastal policy statement), made operative in 2010, now applies to what is termed 'the coastal environment'. This is the coastal marine area plus the landward extent of the sea's influence on the land. Councils must map or otherwise identify Outstanding Natural Landscapes and Features¹ in the coastal environment as well as what is called 'Outstanding' Natural Character and High Natural Character^{2 3}. To date, the landward extent of the coastal environment where the coastal policy statement applies, Outstanding Natural Landscapes and Features, Outstanding' Natural Character and High Natural Character have not been identified in any regional planning maps. They have however been mapped at a regional level in the Proposed Regional Policy Statement for Northland.
- The coastal policy statement also provides stronger direction than previous national policy⁴ to 'avoid adverse effects' on Outstanding Natural Landscapes and Features and Outstanding' Natural Character (without the option of 'remedy' or 'mitigate'). This

¹ New Zealand Coastal Policy Statement – Policy 15.

² New Zealand Coastal Policy Statement – Policy 13. The New Zealand Coastal Policy Statement 1994 generically referred to this as 'natural character' with no distinguishing of the degree of 'naturalness'.

³ New Zealand Coastal Policy Statement – Policy 1

⁴ The New Zealand Coastal Policy Statement 1994 did not require the 'avoidance' of effects.

strong level of direction means that we have to be clear about where the protection elements of the coastal policy statement apply and the particular values being protected. What adverse effects are acceptable, and not, is particularly important in the light of changing in legal interpretation over how adverse effects can be avoided (Supreme Court 'King Salmon' decision'⁵).

- Significant indigenous biodiversity is also subject to the same strong level of protection in the coastal policy statement (although there is no explicit requirement to identify it⁶). There has however been a change to what now constitutes significant indigenous biodiversity for the purposes of protection under Section 6 RMA that differs from the Areas of Significant Conservation Value criteria included in the draft coastal policy statement (see the Marine Ecosystems and Biodiversity topic summary for more detail on this).

1.1.3. Integrated management of significant natural and historic heritage between the coastal marine area and landward extent of the coastal environment

- Cross-boundary issues are also apparent given the jurisdictional boundary of the Regional Coastal Plan being mean high water springs. This can be problematic as natural physical resources do not necessarily follow such 'arbitrary' legal boundaries. For example, a historic heritage feature or area that overlaps mean high water springs should ideally be mapped in both the district plan and Regional Coastal Plan and a similar management regime applied. A similar situation can arise in relation to outstanding landscapes on land, although the extent of such areas can be extremely difficult to define in the coastal marine area.
- Providing consistent resource management across boundaries is a weakness in the Regional Water and Soil Plan and Regional Coastal Plan, which can be quite 'divorced' or disparate (for example, a Marine 1 Management Areas in the coastal plan is not recognised in the provisions of the water and soil plan or district plan applying to immediately adjacent land/freshwater).
- Additionally, the rules in the water and soil plan are typically less restrictive than the corresponding rules in the coastal plan and tend to focus primarily on water quality, water quantity and soil conservation – with natural character/ Outstanding Natural Landscapes and Features not explicit considerations. As such, there is the danger of an inconsistency in how the national coastal policy statement would be applied in the 'coastal environment' in water bodies immediately outside the coastal marine area versus within the area itself⁷.

1.2 Possible changes to the regional plans

The mapping of outstanding natural features, high and outstanding natural character in the Proposed Regional Policy Statement and potentially the mapping of heritage and significant indigenous biodiversity presents an opportunity to refine our mapping of significant values in the coastal marine area. These could replace the current Marine 1 Management Areas. A more targeted approach to where protection should apply will also give more certainty and

⁵ The decision of the Supreme Court in Environmental Defence Society Inc v New Zealand King Salmon Company Limited 2014 NZSC38:
<https://www.google.co.nz/#q=decision+of+the+Supreme+Court+in+Environmental+Defence+Society+Inc+v+New+Zealand+King+Salmon+Company+Limited+2014+NZSC38>

⁶ NZCPS – Policy 11

⁷ Note: with waterbodies outside the Coastal Marine Area, regional councils have a reduced range of functions – for example managing activities on the surface of freshwater bodies is a district council function.

clarity to resource users. For example, it may be that we don't need to have a blanket approach to protection in some areas where a Marine 1 Management Areas designation currently applies.

At the stakeholder workshops this idea was tested with participants, and overall there was broad acceptance of the approach of moving to overlays. It was also agreed that it would improve clarity and reduce uncertainty. It was felt however that there should be sound science in place before any new mapping takes place as well as robust criteria (used in the methodology of drawing the maps) to make sure special attributes were properly captured. A risk based approach could be used to focus mapping efforts, e.g. estuaries and harbours are more vulnerable to the effects of development than the open coastline. In addition the status quo of retaining Marine Management 1 zones will need to be robustly 'tested' against any proposed changes (i.e. through the Section 32 process). Finally policy/ criteria on significance should still exist as a backstop for unmapped Marine Management 2 zones as there was a feeling that despite best efforts, not all significant areas will be captured. *(Note: at the workshop there was a good deal of discussion on mapping marine biodiversity in particular – refer to the marine ecosystems topic for more details).*

The stakeholder workshop also discussed issues around identification of heritage. It was felt that, although most known built and archaeological heritage (i.e. 'physical sites') are located in the terrestrial environment, there are still known sites of value in the CMA and these are currently unrecognised in our coastal plan. Mapping physical sites would afford them a greater level of protection under the RMA (there is statutory protection for archaeological sites under Heritage legislation). Not all physical sites will be equally significant (there are 14,000 known archaeological sites in Northland alone) however the value of sites can change overtime and a large portion of a site can be hidden and buried. The context or 'story' of sites or series of sites can also be important (forming a cultural or heritage landscape).

Undertaking a precise mapping exercise and replacing Marine Management 1 zones means we can refine our existing policies and rules to ensure that we 'capture' the right qualities and use the plan review process to clarify what is and is not 'avoidance' of adverse effects for the purpose of meeting the strict avoidance regime of the coastal policy statement. The feeling from the stakeholder workshop was that we should be clear and specific with what is not an adverse effect and policy and rules should be directly tailored to the sensitivity of the receiving environment. This will include considering circumstances when minor or temporary effects can be acceptable and how beneficial effects can be taken into account. Some activities for example may actually limit other effects, e.g. providing moorings can help avoid anchor damage.

It is also important to recognise that the coastal policy statement introduces an implied 'two tiered' approach to protection – the 'outstanding' values ('tier 1') are to be afforded the highest level of protection where effects are to be avoided. Other values such as 'high' natural character are not considered to be as significant (and may not require rules to protect from activities) but the coastal policy statement still requires some level of protection to ensure these areas maintain their overall integrity ('tier 2'). The two-tiered approach needs to be articulated through policies, methods and rules in the regional plan.

Workshop participants felt that the current Marine Management 1 rules are a good starting point to protect outstanding areas and generally catch activities with known significant effects. The rules will need to be refined for different values however, e.g. a discharge to water is unlikely to affect an Outstanding Natural Landscape or Outstanding Natural Feature but may affect an area of Outstanding Natural Character or significant biodiversity. A structure, on the other hand, may not affect biodiversity values but may affect an

Outstanding Natural Landscapes, Outstanding Natural Feature or an Outstanding Natural Character area.

The workshop discussed whether offsetting would be an appropriate tool to use to manage adverse effects. It was felt that it might not be possible to offset effects against all values (for example significant biodiversity values for extremely threatened or rare species) but offsetting could be used in other instances, for example to replace natural character values that will be lost. Offsetting was also seen as a balancing act, not a silver bullet but part of a hierarchy (avoid, remedy, mitigate, offset, compensate), although it is difficult to see how anything else other than 'avoid' applies where there is a strict avoidance regime like the NZCPS.

A particular challenge will be to develop policy and rules for activities that are adjacent to (not within) identified high value areas, but have an impact on the identified areas. One option is to use an approach similar to the Auckland Council which has drawn a buffer in the coastal marine area around land-based high value areas to capture the primary area of influence. Another option is to use policy to assess the impact of activities on any adjacent high value areas.

Aside from the natural character mapped in the coastal marine area, there is a relatively small amount of Outstanding Natural Character and High Natural Character areas mapped in the Proposed Regional Policy Statement in the coastal environment, within freshwater bodies. The Proposed Regional Policy Statement also identifies some freshwater bodies as Outstanding Natural Landscapes and Features in the coastal environment (for example, Poutō Peninsula Dune Lakes). These could also be mapped in a regional plan. Under the current regional plan framework, protection of these would not fall within the ambit of the Regional Coastal Plan and would therefore be subject to rules in the Regional Water and Soil Plan. As discussed above, the rules between plans are currently quite different but could be aligned where this is possible (for example, rules on disturbances to beds of water bodies). This would implement direction in the coastal policy statement, which is to afford these values the highest level of protection in the whole of the coastal environment.

2 Identification and protection of significant natural and historic heritage from activities within freshwater bodies

The Regional Water and Soil Plan does not have any explicit rules for natural character or Outstanding Natural Landscapes and Features management and relies on policy and assessment criteria applied during the consent process. There are rules protecting Outstanding Value Waterbodies which are identified on the basis of ecological, cultural and/or landscape value (Policy 9.5.2 of the water and soil plan), but not natural character. Rules relate primarily to water quality and quantity and structures.

The issue is the extent to which explicit protection is required in the Regional Water and Soil Plan to manage outstanding landscapes and features where this applies to freshwater bodies (for example, Kai Iwi Lakes are identified as being an outstanding natural landscape and feature) and how natural character is to be managed beyond the coastal environment given it is not mapped⁸.

⁸ Note: the focus is managing activities located in waterbodies and their effects on values immediately adjacent to the waterbody. It is expected that effects from activities located immediately adjacent to waterbodies (i.e. their margins) will be managed by district councils.

Historic heritage is not identified in water bodies in the Regional Water and Soil Plan. Although regional councils can place controls on the disturbance to beds of lakes and rivers which may contain historic and archaeological sites, it must first be identified if rules are to be applied in plans. If not mapped or scheduled, management relies on assessment criteria applied via the consent process or the controls of the Heritage New Zealand Pouhere Taonga Act 2014.

2.1 Possible changes to the regional plans

Freshwater bodies that lie in larger areas of outstanding natural landscapes mapped in the Proposed Regional Policy Statement could be shown in a new regional plan as having a significant landscape value. A note of caution needs to be struck for two reasons:

- Firstly district councils have the ability to remap an area (under Policy 4.5.1 of the Proposed Regional Policy Statement). This makes it potentially problematic to map landscapes within smaller freshwater areas, for example rivers, as the surrounding land designation may change in district plan maps. The mapping of a river on the basis of landscape importance becomes an anomaly if the surrounding landscape is declassified in a district plan. This risk can't be mitigated but is likely to be low risk as any future changes are likely to be minor.
- Secondly, a bigger risk is that the freshwater body itself is not a quality or characteristic that make up the outstanding landscape.

There are however some examples in the Proposed Regional Policy Statement where an outstanding landscape has been mapped wholly within freshwater bodies. This is because they are integral or dominant to the overall outstanding landscape unit (as stated above Kai Iwi Lakes is one such example). It is relatively easy therefore to transfer this mapping into a regional plan.

Outstanding features are less problematic than landscapes as they are more tightly defined (for example around a dune lake) and again it is relatively easy to transfer this mapping layer into a regional plan. Additionally there are some outstanding natural features yet to be spatially identified but otherwise included in Appendix 4 of the Proposed Regional Policy Statement as meriting consideration. These include waterfalls, hot springs and the geothermal field at Ngāwhā – again wholly or largely in water.

Protection of Outstanding Natural Landscapes and Features are likely to be partially captured under existing rules for outstanding value waterbodies and dune lakes. New rules may be needed for features that are not otherwise captured under the 'umbrella' of these two designations, for example, waterfalls or hot springs. Policies could guide resource consenting for activities in freshwater bodies and their effects on outstanding features on land.

It is not recommended that natural character is mapped outside what is already mapped in the coastal environment through the Proposed Regional Policy Statement – this is likely to be an onerous and expensive exercise. An alternative method is to capture (and thus protect) natural character through existing designations including by making natural character a specific driver for the designation of outstanding natural value waterbodies, dune lakes and significant indigenous wetlands. Outside of these high value areas, effects on natural character can be assessed on a case by case basis using policy.

We could identify historic heritage in freshwater bodies and manage the effects from activities within the water body using policies and rules. We could also use policies to protect historic heritage adjacent to freshwater bodies.

3 Summary tables – Significant natural and historic heritage in waterbodies

The tables below present an overall guide on the possible approach that could be taken for protecting significant natural and historic heritage.

3.1 Outstanding natural character, outstanding natural landscapes, and outstanding natural features

Coastal marine area and freshwater bodies in coastal environment	Freshwater bodies outside coastal environment	Land adjacent to freshwater bodies outside coastal environment
<p>Map in the coastal marine area and freshwater bodies in coastal environment in regional plan as overlays with associated policies and rules.</p> <p>Consider including mapping ‘buffers’ in coastal marine area around mapped areas on adjacent land.</p> <p>Don’t map natural character in the open coast beyond what has been already mapped in the Proposed Regional Policy Statement.</p> <p>Policy reflecting the ‘avoid adverse effect’ requirements of New Zealand Coastal Policy Statement. Policy to also outline how adverse effects are avoided and/or what types of adverse effects are appropriate.</p> <p>Will only have rules where the underlying zone rules are not appropriate. Rules to focus on the impacts on activities on the values of the overlay area.</p>	<p>Map outstanding natural landscapes and outstanding natural features in certain water bodies in regional plan where the feature/landscape is dominant/integral to the water body, for example, dune lakes.</p> <p>Don’t map natural character in its own right however could use ‘natural character’ as a new criterion for designating outstanding water bodies (and possibly dune lakes and significant wetlands).</p> <p>Policy applied to resource consents for natural character and policy and rules for outstanding natural landscapes and outstanding natural features.</p>	<p>Don’t map natural character, outstanding natural landscapes and outstanding natural features but include policy to manage effects of activities within water bodies on these values.</p>

3.2 High natural character

Coastal marine area and freshwater bodies in coastal environment	Freshwater bodies outside coastal environment	Land adjacent to freshwater bodies outside coastal environment
<p>Map in the coastal marine area and freshwater bodies in coastal environment in regional plan as overlays.</p> <p>Policy reflecting the 'avoid significant adverse effect' requirements of New Zealand Coastal Policy Statement.</p> <p>Likely to be policy driven rather than have specific rules.</p>	<p>Don't map natural character in its own right however could use 'natural character' as a new criterion to be used in designating outstanding water bodies (and possibly dune lakes and significant wetlands).</p> <p>Policy applied to resource consents for the purposes of managing effects on natural character.</p>	<p>Don't map natural character but include policy to manage effects of activities within water bodies on natural character.</p>

3.3 Significant biodiversity and ecosystems

Coastal marine area and freshwater bodies in coastal environment	Freshwater bodies outside coastal environment	Land adjacent to freshwater bodies outside coastal environment
<p>(Refer also to 'Marine Ecosystems and Biodiversity' topic)</p> <p>Map in the coastal marine area and freshwater bodies in coastal environment in regional plan as overlays with associated policies and rules.</p> <p>Consider including mapping 'buffers' in coastal marine area around mapped areas on adjacent land.</p> <p>Policy reflecting the 'avoid adverse effect' requirements of New Zealand Coastal Policy Statement. Policy to also outline how adverse effects are avoided and/or what types of adverse effects are appropriate.</p> <p>Will only have rules where the underlying zone rules are not appropriate. Rules to focus on the impacts on activities on the values of the overlay area.</p>	<p>Not addressed by this topic (refer to 'Water Quality')</p>	<p>Not addressed by this topic. (refer to 'Water Quality')</p>

3.4 Historic heritage

Coastal marine area and freshwater bodies in coastal environment	Freshwater bodies outside coastal environment	Land adjacent to freshwater bodies outside coastal environment
<p>Map in regional plan.</p> <p>Include policy and rules to avoid significant adverse effects on this resource</p>	<p>Map in regional plan.</p> <p>Include policy and rules to avoid significant adverse effects on this resource</p>	<p>Do not map in regional plan.</p> <p>Include policy to avoid significant adverse effects on this resource from activities taking place within freshwater bodies.</p>