

# Significant natural and historic heritage

**Recommendations in response to submissions on the Proposed Regional Plan for Northland - Section 42A hearing report**

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## Purpose and format of the report

1. This report provides the hearing panel the rationale for the recommended changes to the Significant Natural and Historic Heritage provisions in the Proposed Plan for Northland (the Plan) in response to submissions. The recommended changes are set out in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
2. The recommendations made in this report are the opinion of the authors and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. The authors recommendations may change as a result of presentations and evidence provided to the hearing panel. It's expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. The recommendations focus on changes to the Plan provisions. If there is no recommendation, then it's to be assumed that the recommendation is to retain the wording as notified.
5. Generally, the specific recommended changes to the provisions are *not* set out word-for-word in this report. The specific changes (including scope for changes) are shown in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
6. This report is structured with a focus on the key matters for the Significant Natural and Historic Heritage provisions raised in submissions.
7. Matters covered by submissions that fall outside the key matters are addressed in the "Other matters" section in less detail.
8. Further submitters are generally not referred to as they are in support or opposition of original submissions (they cannot go beyond the scope of the original submissions). The exception is where a further submission raises reasons that have not been raised in the submissions and are material to the analyses.
9. The approach of addressing matters raised in submissions (rather than addressing submissions and/or and submission points individually) is consistent with Clause 10 of Schedule 1 to the RMA.

10. This report should be read in conjunction with Section 8 Coastal (in respect of surfbreaks) and Section 9 Significant natural and historic heritage in the Section 32 report.

## Report authors

### Author 1:

11. My name is Jon Trewin and I have overall responsibility for the historic heritage, natural character and outstanding natural feature parts of this report. I have assisted on significant biodiversity policy. I have worked as a Policy Analyst for the Northland Regional Council (regional council) since 2009. For further details about my qualifications and experience, refer to the S42 report: *General approach*.
12. The following council staff and consultants have assisted me with the preparation of the significant biodiversity part of this report:
  - Stuart Savill, Consents Manager, Northland Regional Council
  - Liz Clark, Historic Researcher.
  - Bill Edwards, Heritage NZ.

The mapping included in the Proposed Regional Plan for this topic include historic heritage areas/sites, outstanding natural features and natural character.

### Author 2:

13. My name is James Griffin and I have overall responsibility for the significant biodiversity part of this report. I have worked as a Policy Analyst for the Northland Regional Council (regional council) since 2012. For further details about my qualifications and experience, refer to the S42 report: *General approach*.
14. The following council staff and consultants have assisted me with the preparation of the significant biodiversity part of this report:
  - Stuart Savill, Consents Manager, Northland Regional Council
  - Vince Kerr, Marine Ecologist

The mapping included in the Proposed Regional Plan for this topic includes significant ecological areas, significant bird areas and significant marine mammal areas.

**Author 3:**

15. My name is Michael Payne and I have overall responsibility for the surfbreak parts of this report. I work as a Policy Analyst for the Northland Regional Council (regional council). For further details about my qualifications and experience, refer to the s42 report: *General approach*
16. The following council staff and consultants have assisted me with the preparation of the surfbreak parts of this report:
- Paul Maxwell, Coastal and works consents manager. Northland Regional Council

**All**

17. Although this is a council hearing, we have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. We have complied with that Code when preparing this report and we agree to comply with it when giving oral presentations.

## About the Significant Natural and Historic Heritage provisions

18. The relevant provisions in the Proposed Plan for Significant Natural and Historic Heritage addressed in this report are:

**Definitions**

- Historic Heritage Site
- Historic Heritage Area

**Rules**

- C.1.1.7 Reconstruction, maintenance or repair of a structure – permitted activity.
- C.1.1.10 Removal of structures – permitted activity.
- C.1.1.16 Structures outside significant marine areas – discretionary activity
- C.1.1.20 Removal, demolition or replacement of a Historic Heritage Site – non-complying activity.
- C.1.1.22 Structures within a significant marine area – non-complying activity.
- C.1.2.11 Moorings in significant areas – non-complying activity
- C.1.3.10 Marae based aquaculture in areas with significant values – discretionary activity
- C.1.3.12 Small scale and short duration aquaculture in areas with significant value – non-complying activity
- C.1.3.13 New aquaculture in a Significant Ecological Area in the Kaipara Harbour – non-complying activity
- C.1.3.14 Aquaculture in areas with significant values – prohibited activity.
- C.1.5.14 Other dredging and disturbance activities – non-complying activity
- C.1.6.5 Reclamations in areas with significant value – non-complying activity

- C.2.1.4 Existing authorised structures – permitted activity
- C.2.1.9 Demolition and removal of existing structures – permitted activity
- C.2.1.15 Structures in a significant area – non-complying activity
- C.2.1.16 Removal, demolition or replacement of a Historic Heritage Site or part of a Historic Heritage Site – non-complying activity.
- C.3.9 Damming or diversion of water in a significant wetland or significant area – non-complying activity.

#### **Policies**

- D.2.6 Managing adverse effects on historic heritage
- D.2.7 Managing adverse effects on indigenous biodiversity
- D.2.8 Precautionary approach to managing effects on significant indigenous biodiversity.
- D.5.26 Significant surf breaks
- D.5.27 Managing effects on surf breaks

#### **Maps**

- Historic Heritage Area Overlay
- Historic Heritage Sites Overlay
- Significant Ecological Areas Overlay
- High Natural Character Overlay
- Outstanding Natural Character Overlay
- Outstanding Natural Feature Overlay
- Significant Surf Breaks Overlay

19. There are a number of overlaps between this topic and others. This is because of the cross-cutting nature of the topic and the need to embed protection for significant natural and historic areas across the activity rules of the plan.
20. Other S42a reports will cover in greater detail the proposed rules to protect significant areas from the adverse effects of particular activities. Relevant reports include:
- S42a reports on the topics of coastal reclamations, coastal structures, aquaculture, dredging, disturbance and disposal, mooring and anchorage and mangrove management.
  - S42a report on the topic of wetlands and the use of beds of lakes and rivers
  - S42a report on the topic of land disturbance.

This S42a will include higher level discussion on the protection afforded to significant/outstanding areas.

21. The topic does not include maps and associated provisions to protect sites of significance to tangata whenua. This is covered under the Tangata Whenua S42a report, however there will be some natural overlap with this topic as historic heritage, areas of significant biodiversity and outstanding natural character/features are often afforded importance by tangata whenua.

22. The topic covers a number of statutory matters governed by the New Zealand Coastal Policy Statement (NZCPS) and the Regional Policy Statement (RPS) for Northland. This includes:

- Policy 11 (Indigenous biological diversity) of the NZCPS, which is a requirement to avoid adverse effects on 'significant' areas of biodiversity. The RPS has outlined criteria for determining what significant means (Appendix 5 of the RPS). Although not required by either the NZCPS or RPS, the criteria have been used to map areas of significant ecological value in the marine area as shown in the Proposed Plan maps to provide greater clarity. These areas are split into several categories as follows:
- *Significant Ecological Areas (including Significant Toheroa Beaches)*. Significant ecological areas include areas of discrete habitat in both estuarine and in open coast areas. The mapping in this case is designed to drive rules and policy with the aim of satisfying the protection requirements in the NZCPS.
- *Significant Bird Areas*: The values in these areas are more dispersed over large areas of coast and are therefore less susceptible to disruption by human activities. In this case, the mapping functions as an information layer for resource consent effects assessment
- *Significant Marine Mammal and Seabird Areas*. The most dispersed layer. Seabirds are found up and down Northland's coastline and marine mammals inhabit most of the coastal marine area. Again, the mapping is for information purposes.
- Policy 13 (preservation of natural character) of the NZCPS, includes a requirement that councils identify areas of high and outstanding natural character in the coastal environment and avoid adverse effects on outstanding natural character. Region-scale mapping of high and outstanding natural character areas in the coastal environment was undertaken as part of the development of the RPS. The Proposed Plan has incorporated the mapped natural character in the coastal marine area (and a very small area of freshwater marked as being within the coastal environment). There was no policy relating to natural character in the Proposed Plan as directive policy already exists in the two higher order documents in particular (NZCPS Policy 13 and RPS Policy 4.6.1). Policy direction to 'avoid adverse effects' on outstanding natural character has generally been interpreted

(with a few exceptions) as any new activity, unless very small in scale, being non-complying in these areas.

- Policy 15 (natural features and natural landscapes) of the NZCPS, which is a requirement that councils identify areas of outstanding natural landscape and outstanding natural features in the region and avoid adverse effects on those outstanding natural landscape and outstanding natural features (in the coastal environment). Regional-scale mapping of outstanding natural landscape and outstanding natural features was undertaken as part of the development of the RPS. The Proposed Plan does not include any outstanding landscapes mapped in this process because there is only a negligible amount mapped in waterbodies (for example dune lakes) and these are protected through other designations to similar effect (often both outstanding features and outstanding waterbodies). Outstanding natural features in waterbodies have been included in the plan<sup>1</sup>. As for natural character, for policy direction on outstanding natural features the proposed regional plan relied on higher order documents (in particular NZCPS Policy 15 and RPS Policy 4.6.1). and did not include specific policies. Policy direction to 'avoid adverse effects' on outstanding natural features has also generally been interpreted in the Proposed Plan as most new activities being non-complying in these areas
- Policy 16 of the NZCPS seeks to protect nationally significant surf breaks, access to them, and their use and enjoyment. Seventeen nationally significant surf breaks are identified and listed in Schedule 1 of the NZCPS 2010. Two of the seventeen nationally significant surf breaks are located at Tauroa Point, near Ahipara in Northland. Councils are not required to identify nationally significant surf breaks in regional plans however, we are of the view that identifying the extent of these breaks would be useful for resource users and we believe it is the most appropriate way to give effect to the requirements of Policy 16. The nationally significant surf breaks at Tauroa Point have been mapped in section I – maps of the Proposed Regional Pan, in consultation with

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<sup>1</sup> These essentially fall into three categories: (1) those mapped in the RPS and have been incorporated without modification, (2) those mapped in the RPS and have since been modified following further assessment by the Bruce Hayward, Council's geology consultant and (3) additional features that have since been found to be 'outstanding' following further assessment by Bruce. These additional features were listed in Appendix 4 of the RPS as requiring further assessment to determine their significance

representatives from board riders clubs from around the region and the Surfbreak Protection Society.

- Policy 17 (historic heritage identification and protection) of the NZCPS which is a requirement that Councils identify, assess and record historic heritage including archaeological sites. As part of the development of the Proposed Plan work was undertaken (by Clough & Associates) to identify historic heritage in coastal and freshwater areas that was significant enough to warrant protection. Identification was undertaken following criteria outlined in Policy 4.5.3 of the RPS. A list of 133 sites were initially identified with 125 put aside for possible future evaluation and eight more warranting further assessment. Five areas were also identified with three warranting further assessment (Two had existing detailed area reports from Heritage NZ). Following consultation on the draft plan, further work was undertaken by Liz Clark to assess some of the sites identified as warranting further assessment. From this process, another nine sites were assessed and mapped.

## Jurisdictional issue

**Author: Jon Trewin**

23. Before turning to the submissions, it is important to address a jurisdictional issue raised by the Hearings Panel (Minute 3). The direction to staff in this minute was to consider the legality of whether the plan can include rules to protect historic heritage, outstanding natural features, outstanding natural landscapes, outstanding and high natural character (outside of the coastal marine area) taking into account the regional council's functions under S30 RMA).
24. Minute 3 included a request that submitters with an interest in the matter respond to the Minute by 3 April 2018 with legal submissions on this matter. We received one legal submission from Heritage NZ.
25. The Hearing Panel's preliminary view is that historic heritage outside of the CMA cannot be reconciled with the above matters and should be removed from the plan. I agree that this would appear to be the case and the only way of resolving this is to remove historic heritage outside of the CMA from the plan. This would include removal of two sites – Kohukohu Old Stone Bridge and Kerikeri River Concrete Dam – as well as reduction of the size of the Kerikeri Basin Historic Heritage Area to exclude the lower reach of the

Kerikeri River. It would also require the deletion of rules in Section 2 (Activities in the beds of lakes and rivers and in wetlands) and Section 3 (Damming and diverting water) of the plan that relate to the protection of historic heritage.

26. The legal submission from Heritage NZ did not contend this point but stated that a cross-boundary protocol be included by way of an advice note in the plan to provide guidance for consenting purposes when dual consenting is required. I agree this would be useful. I have dealt with this point separately below.
27. The Hearing Panel indicated there may be scope to include rules on outstanding natural features and outstanding and high natural character but only if they contain elements of the matters listed in S30 (1c) and (ga) as follows:
- S30(1)(c) The control of the use of land for the purpose of:
    - a) soil conservation
    - b) maintain or enhancing the quality of water
    - c) maintaining the quantity of water
    - d) maintaining or enhancing aquatic ecosystems
  - S30 (1) (ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:
28. I believe that relevant grounds to include rules under S30 RMA are wider and, in addition to the above, may also include:
- S30 (1)(e) the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including:
    - i) the setting of any maximum or minimum levels or flows of water:
    - ii) the control of the range, or rate of change, of levels or flows of water:
    - iii) the control of the taking or use of geothermal energy:
29. The mapping of outstanding and high natural character was largely driven by biophysical criteria and this has been factored into the mapping assessment<sup>2</sup>. There are other elements of natural character, such as amenity<sup>3</sup> however for practical purposes (i.e. it was

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<sup>2</sup> Refer to Froude, VA, 2014: Northland Regional Council Mapping Project. Natural character methodology report (including amendments following council decisions): Pacific Eco-Logic Ltd, Bay of Islands.

<sup>3</sup> New Zealand Coastal Policy Statement Policy 13.

hard to physically identify them) these 'experiential' elements were not explicit factors in the mapping of natural character.

30. Mapped aquatic natural character outside of the CMA is restricted to the coastal environment. The extent of mapping is therefore quite limited and typically includes brackish water around the margins of estuaries. It often represents a natural extension of saltmarsh or mangrove areas above Mean High Water Springs. It has also tended to include the ecologically important dune lakes which are isolated from other water bodies on the basis that the natural character values were directly related to freshwater. I believe therefore that natural character can be retained on the basis that a line can be clearly drawn between this mapping and the S30 (1) (ga), function for the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity (specifically aquatic or freshwater biodiversity). Policy 13(2) NZCPS criteria for natural character relates to water in two ways: a) natural elements, processes and patterns and e) natural movement of water. To this end the regional council's function under S30 (1)(e)(ii) to control the range, rate of change or levels or flows of water is important to protect natural character and, by extension, aquatic biodiversity.
31. Turning to Outstanding Natural Features, there are a number of features in the proposed plan that are mapped in waterbodies but not in the CMA. Some of these features could have important indigenous biodiversity values. However, from reading the descriptions of these sites, the primary driver behind the mapping of these features is their geological and scientific value and biodiversity values are not stated. There are a number of geological features where the presence of water is not incidental to the integrity of the feature but rather fundamental. Examples include:
- Waterfalls, (including Piroa Falls, Wairoa Falls, Paranui Falls, Whangarei Falls, Haruru Falls, Wharepoke Falls, Rainbow Falls
  - Geothermal features – such as Ngawha Springs
  - Soda springs
  - Dune lakes (Pouto sequence, Kai Iwi Lakes, Waipoua, Ruakaka
  - Volcanic Lakes (Lake Ora, Lake Omapere

I believe this gives us scope to map these features under S30 (1)(e) the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body. I also note NZCPS Policy 15c)ii) which refers to the

'presence of water' in identifying and assessing outstanding natural features that suggests there is a good case for including them in regional plans.

32. Conversely there are other features that are in water but this is not fundamental to the values of the feature and it would be more appropriate if these features were primarily protected in district plans.
33. I have identified what I believe are the outstanding natural features that should be retained and deleted outside of the coastal marine area in Appendix B to this report. These are displayed in the recommended changes to the maps.
34. The Proposed Plan presently contains rules protecting outstanding natural features under Section 13 RMA (Restriction on certain uses of beds of lakes and rivers) and the taking and use, damming and diversion of water (Section 14 RMA). From my assessment, many of these rules relate to S30 (1) (c) and (e) functions and should be retained. There are no explicit rules relating to water takes and outstanding natural features but these effects would be considered through the policy framework if the take was sufficient to trigger a resource consent.
35. A number of submitters have requested mapping and provisions managing effects on outstanding natural landscapes and other land based values. I have addressed this as separate key issues below (requests for new objectives and policies to manage effects on outstanding natural landscapes and request to map/acknowledge additional significant areas and land based values).
36. In summary, my recommendations are to:
  - remove mapped historic heritage sites and rules from chapters C.2 and C.3 of the Proposed Plan.
  - retain maps and rules relating natural character in chapters C.2 and C.3 of the Proposed Plan.
  - retain rules relating to outstanding natural features in chapters C.2 and C.3 of the Proposed Plan.
  - retain maps of outstanding natural features in water identified as having values that rely on the presence of water (refer Appendix B).

# Overview of submissions

## Historic Heritage

**Author: Jon Trewin**

37. Over 20 submitters made submissions on aspects of the historic heritage provisions (maps, objectives, policy and rules).
38. Two key matters were raised (excluding the jurisdictional issue which was raised outside of the submissions process). The first by Heritage NZ was a challenge to the methodology used to develop the list of historic heritage included in the plan. Heritage NZ's concerns include:
  - The narrow criteria against which items are assessed.
  - The use of a numerical approach to codify an item's value against these criteria.
  - The threshold required for an item to merit inclusion on the schedule within a category that invokes rules.
  - The existence of just one category that invokes rules.
39. The second key matter relates to the management of historic heritage where there may be health and safety concerns about its condition. This point was raised by GBC Winstone (in relation to a disused wharf they own identified as having historic heritage values) and raises a wider question about ongoing management of historic heritage structures.
40. Other matters included:
  - Mapping/recognition of land based and unmapped historic heritage values beyond the areas mapped in the Proposed Plan.
  - Definitions used to describe works to historic heritage (e.g. additions, alterations, repair)
  - Proposed additions to the list of historic heritage assets mapped in the Proposed Plan.
  - Changes to Policy D.2.6 (managing effects on historic heritage)
  - Changes to rules for governing effects on historic heritage for various classes of activity – they are dealt with in their respective S42A reports.

## **Natural Character**

**Author: Jon Trewin**

41. Around 20 submitters made submissions on the natural character provisions.
42. One key matter was raised (excluding the jurisdictional issue which was raised outside of the submissions process). This was the need to have objectives and policies in the plan to protect and manage adverse effects on natural character.
43. Other matters included:
  - Mapping/recognition of land and freshwater based natural character values beyond the areas mapped in the RPS.
  - Requests to amend natural character on the Proposed Plan maps; and
  - Changes to the definition of natural character.
  - Changes to rules governing effects on natural character for various classes of activity – they are dealt with in their respective S42A reports.

## **Outstanding natural features**

**Author: Jon Trewin**

44. Around 20 submitters made submissions on the outstanding natural features provisions.
45. One key matter was raised (excluding the jurisdictional issue which was raised outside of the submissions process). As for natural character, this was the need to have objectives and policies in the plan to protect and manage adverse effects on outstanding natural features.
46. Other matters included:
  - The request to define/identify geothermal features.
  - Requests to amend outstanding natural features on the Proposed Plan maps; and
  - A number of rule changes governing effects on outstanding natural features were proposed for various classes of activity – they are dealt with in the respective S42a.

## **Significant Indigenous Biodiversity**

**Author: James Griffin and Jon Trewin**

47. Over 30 submitters made submissions relating to significant indigenous biodiversity, primarily seeking either a more restrictive or relaxed approach for particular activities, but also greater rule coverage for the significant bird areas and inclusion of significant terrestrial habitat. The matters covered in the key issues section of this report, were those seeking changes to the Significant Ecological Area (SEA) maps in the CMA .
48. Other matters included:
- Mapping/recognition of freshwater significant ecological areas (rivers, lakes and wetlands).
  - Changes to Policy D.2.7 (managing adverse effects on indigenous biodiversity) and D.2.8 Precautionary approach to managing effects on significant indigenous biodiversity.
  - Changes to rules governing effects on significant indigenous biodiversity for various classes of activity – they are dealt with in their respective S42A reports.

## **Significant surf breaks**

**Author: Michael Payne**

49. Nine submitters made submissions on the surf break provisions, and these were broken up into 8 submission points, covering policies and maps.
50. In relation to surf breaks, two key matters were raised by the Surfbreak Protection Society and Tony Baker. The first was a challenge to the delineation between Regionally Significant Surf breaks and other surf breaks in the policy and mapping. The submitters are seeking changes to make all the surf breaks assessed by the Surf Break Working Party<sup>4</sup> Regionally Significant Surf breaks.

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<sup>4</sup> A working party made consisting of representatives from Northlands Boardriders Clubs and the Surfbreak Protection Society to advise on surf breaks for the Proposed Plan.

51. The second key matter relates to the wording of policy D.5.26 – *Significant surf breaks*. The submitter is seeking amendments to clause two to make it clear that significant adverse effects are to be avoided and other adverse effects are to be avoided, remedied or mitigated.

#### **D.5.26 – Significant surf breaks**

*Provide for the use and enjoyment of Nationally and Regionally Significant Surf Breaks (refer: I Maps) by ensuring that:*

- 1) *Resource consent applications.....*
- 2) *Significant adverse effects on Regionally Significant Surf Breaks are avoided, and avoid remedy or mitigate other adverse effects of activities on regionally significant surf breaks.*

## **Outstanding natural landscapes**

**Author: Jon Trewin**

52. Seven submitters made submissions on outstanding natural landscapes.
53. Two key matters were raised. As for both natural character and outstanding natural features, the key matter was the need to have objectives and policies in the plan to protect and manage adverse effects on outstanding natural landscape
54. The other key matter raised was the request for mapping/recognition of outstanding natural landscapes including seascapes.

## **Avoiding adverse effects**

### **Background**

55. There were several submitters<sup>5</sup> that challenged a range of rules on the basis that they did not give effect to the requirement to avoid adverse effects on<sup>6</sup> mapped:
- Significant ecological areas

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<sup>5</sup> In particular the Minister of Conservation, Royal Forest and Bird, CEP Services Matauwhi Limited.

- Outstanding natural character areas
- Outstanding natural features

For the purposes of this discussion, I will refer to these as ‘significant natural areas’.

56. The requirement to avoid adverse effects on these mapped areas comes from the various policies in the NZCPS and RPS that apply within the coastal environment. Refer to Section 9.4 of the Section 32 report for a discussion about these policies. In particular<sup>7</sup>:
- Policy 4.4.1, RPS: Avoid adverse effects on ‘significant’ biodiversity in the coastal environment (as defined in Policy 4.4.1(1) clauses a), b) and c)).
  - Policy 4.6.1, RPS: Avoid adverse effects on the characteristics and qualities which make up the outstanding values of outstanding natural character, outstanding natural features, and outstanding natural landscapes in the coastal environment
57. Again, for the purposes of this discussion, where I refer to avoiding adverse effects on significant natural areas, it is short-hand for avoiding adverse effects as described above.
58. The *King Salmon*<sup>8</sup> case set the benchmark for what the application of these ‘adverse effects’ policies mean – put simply, it means that plan provisions cannot allow for adverse effects on the values of significant natural areas (with some qualifications). I have not gone into any detailed discussion on this as it’s a (now) commonly understood principle.
59. There have been some cases that have further refined the application of *King Salmon*. The Royal Forest and Bird Protection Society of New Zealand Incorporated vs Bay of Plenty Regional Council (December 2017) case<sup>9</sup> has made it clear that the requirement to avoid adverse effects cannot be traded off against the benefits of an activity (in this case the upgrade of important infrastructure).

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<sup>7</sup> Paraphrased

<sup>8</sup> [https://www.courtsofnz.govt.nz/cases/environmental-defence-society-incorporated-v-the-new-zealand-king-salmon-company-limited-ors/@\\_@images/fileDecision](https://www.courtsofnz.govt.nz/cases/environmental-defence-society-incorporated-v-the-new-zealand-king-salmon-company-limited-ors/@_@images/fileDecision)

<sup>9</sup>

<https://forms.justice.govt.nz/search/Documents/pdf/jdo/3e/alfresco/service/api/node/content/workspace/SpacesStore/7939ced8-44fe-4392-9f84-a3f1420ea674/7939ced8-44fe-4392-9f84-a3f1420ea674.pdf>

## Submitters arguments

60. Submitters have basically argued that if an activity may result in adverse effects on significant natural values then it should be a non-complying activity. Additionally, it is argued that the scope of permitted activities is too great for these areas and as presently proposed, could give rise to adverse effects that are more than minor which would be inconsistent with both the NZCPS and RPS.

## Approach used in the plan

61. The relevant rules are in C.1 *Coastal activities*. There are a range of rules for activities in significant natural areas which range from permitted activities (e.g. rule C.1.1.1 *Existing structure – permitted activity*) to non-complying (e.g. C.1.6.5 *Reclamations in areas with significant value – non-complying activity*).
62. RPS policies 4.4.1 (4) (significant indigenous areas) and 4.6.1(3) (outstanding natural character, landscapes and natural features) direct that the following should be recognised when considering adverse effects:
- Minor or transitory effects may not be an adverse effect
  - Irreversible effects are likely to be more than minor
  - That many areas contain ongoing use and development that were present at the time of mapping and may be dynamic, diverse or seasonal
  - There may be more than minor cumulative adverse effects from minor or transitory adverse effects.
63. In practice, this means that there is a very small tolerance for effects and permitted and controlled activities have been developed subject to this direction. In other words, activities in a significant natural area may be permitted or controlled activities if the adverse effects are temporary, very minor or existed at the time the area was identified for its significant values. For example:
- Rule C.1.1.1 *Existing structure – permitted activity* permits a range of small structures which existed prior to the mapping or were previously and authorised; and singularly and collectively are likely to have a less than minor effect on the relevant values.

- *Rule C.1.1.7 Reconstruction, maintenance or repair of a structure -permitted activity* permits repair and maintenance of an existing structure. Again, this activity is likely to have a less than minor effect on relevant values and any temporary adverse effects arising from construction activities are managed through a raft of conditions.
- *Rule 1.5.10 Maintenance dredging – controlled activity.* Maintenance dredging is dredging that deepens existing channels from time to time to relieve the build-up of sediment. Therefore, the effects are predictable with the channel existing prior to the mapping being undertaken. Effects on significant values are a relevant matter of control but effects are likely to be less than minor due to the historical nature of the activity.

64. For permitted or controlled activities in the plan we have taken a practical risk based approach to rule setting and are confident that the potential for adverse effects to occur from these activities is low.

65. Restricted discretionary and discretionary activities have been used where we are less certain that adverse effects will not occur (on the continuum of risk) however the scope and scale of the activity are reasonably constrained, and therefore the potential for adverse effects on significant natural areas is less likely. For example, in rule C.1.5.11 *beach scraping – restricted discretionary activity*, beach scraping is a well-defined activity and the effects on concern are likely to be temporary.

66. Non-complying activities are used where the scale and scope of activities is undefined and therefore the likelihood of adverse effects on significant natural areas is more likely (than activities covered by lesser activity status rules).

67. The above approach has been assessed through a S32 analysis. This included an assessment on whether adverse effects were likely to occur from various options. Ultimately a ‘moderate control’ option was deemed appropriate because:

- Any ‘new structure’, with the exception of very narrowly defined ‘minor structures’ (small signs, navigational aids etc...), in an area of outstanding natural character or an outstanding natural feature is a non-complying activity. Any new structure in a significant ecological area is a discretionary activity. The difference is based on the expanse of significant ecological areas and their greater likelihood to accept some structures than outstanding natural character areas.

- Any disturbance beyond either a minor or incidental amount or where effects are historical and predictable (e.g. maintenance dredging) is a non-complying activity.

68. In my opinion, the analysis for the suite of options meets the tests of S32 RMA. Submitters may wish to provide evidence that activities permitted or controlled in the Proposed Regional Plan are likely to have more than temporary or minor adverse effects on significant natural heritage.
69. In relation to values not mapped in the plan (for instance outstanding landscapes), they will be considered under the normal process of assessing effects through a resource consent. There will be no particular rule trigger, however most new activities in the coastal marine area with potential for adverse effects will be assessed as a discretionary activity allowing effects on outstanding landscape to be considered. I also note that the NZCPS Policy 15(e) requires that "...regional policy statements and plans map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules" –mapping outstanding natural landscapes in the coastal marine area was not considered necessary given that almost all activities with the potential to result in adverse effects on landscape values require resource consent and any such impacts can be considered through that process. The same cannot be said for outstanding natural character or outstanding natural features given these areas tend to be more sensitive to a wider range of activities (i.e. there are more than visual effects at issue, which is the primary concern for outstanding landscapes).

## **Request for new objectives and policies to protect natural character, outstanding natural landscapes, outstanding natural features, historic heritage and significant indigenous biodiversity**

### **Background**

70. As outlined in the S42A report: *General Approach*, the recommendation is to include specific objectives. A number of submitters also requested new policies (or the importing of policies from the RPS) addressing the protection of significant natural and historic heritage areas.

## Submissions

71. There were various submissions asking for the inclusion of specific objectives, reflecting concern that the single proposed objective is too general and high level to provide for regional outcomes and does not give effect to the RPS. In relation to significant natural and historic heritage areas these include submissions from Haititaimarangai Marae 339 Trust, Heritage NZ, Northland Fish and Game, the Minister of Conservation and Royal Forest and Bird.
72. Submitters who sought that policy wording is strengthened to protect significant natural and historic heritage include CEP Services Matauwhi Limited, Bay of Islands Maritime Park, the Minister of Conservation, Northland Fish and Game and Royal Forest and Bird.

## Analysis and recommendation

73. I agree that objectives and policies are required to give effect to the RPS. My recommended wording is in the Proposed Regional Plan - S42 Recommendations.
74. An objective is recommended to protect outstanding natural landscapes, outstanding natural features, natural character and historic heritage. I propose wording based on objective 3.14 in the RPS modified to a minor extent to be appropriate to the matters dealt with by the regional council under its S30 RMA functions. It should also include protection of places of significance to tangata whenua as an additional matter.
75. I also recommend an objective to protect indigenous biodiversity. In coming up with this objective, I focussed on the important matters for use and development associated with safeguarding the life-supporting capacity ecosystems and wider indigenous biodiversity in Northland, in particular RPS objective 3.4, but also informed by the NZCPS. I have also avoided going into detail (e.g. identifying particular types of use and development) as detailed objectives can become blurred with policies, and I think that level of detail is more appropriate at the policy level. At the same time, I think the objective, in tandem with related provisions in the RPS and NZCPS, provides adequate direction to the policies.
76. In relation to requests for new policies/policy wording I agree that the RPS directs regional plans to include policies to give effect to the provisions in the RPS and that presently the Proposed Plan is minimalist in this regard. To remedy this, I propose an additional policy for managing adverse effects on natural character, outstanding natural landscapes and

outstanding natural features (policies relating to historic heritage and places of significance to tangata whenua are already addressed in the proposed plan).

77. I am also recommending changes to D.2.6 Managing adverse effects on historic heritage and D.2.7 Managing adverse effects on indigenous biodiversity to include wording from the RPS on the thresholds for avoiding, remedying or mitigating effects for these particular values. The latter to grant relief to the Minister of Conservation and Royal Forest and Bird and the former for consistencies sake.
78. The complete wording of the new and revised policies can be found in the Proposed Regional Plan - S42 Recommendations.
79. CEP Services Matauwhi Limited seeks that a further policy is inserted into Section D of the Proposed Plan that sets out that an activity in the vicinity of a historic heritage area of site shall only be approved if the historic heritage values are protected. This is too blunt in my opinion and the requirement as directed by the RPS is to avoid 'significant adverse effects' not avoid all adverse effects. They also seek that all rules applying to mapped historic heritage also apply to historic heritage in the vicinity of the proposed activity. I am uncertain how this would work in practice. There is further discussion below on considering adverse effects on land based values from activities in coastal and freshwater.

## **Evaluation of recommended changes**

80. The amendments proposed above for natural character and outstanding natural features are not significant in my opinion as although this has resulted in a new objective and policy being included in the Proposed Plan, they essentially mirror direction in the NZCPS and RPS and do not impose new tests or obligations.
81. The inclusion of the *Indigenous ecosystems and biodiversity* objective has only resulted in minor changes to the policy D.2.7 *Managing adverse effects on indigenous biodiversity* in the Plan. The changes involve inclusion of the term 'ecological complexes' (newly defined in the Proposed Plan – refer to Proposed Regional Plan - S42 Recommendations) and recognition of the role of restoration and enhancement in maintaining indigenous biodiversity. The objective is consistent with the preferred management options as set out in *Section 6 Wetland and beds of lakes and rivers and Section 8 Coastal* of the Section 32 report and therefore does not require further evaluation.

# Request to map/acknowledge additional significant areas

## Submissions

81. A number of submitters request that additional areas with significant values are mapped and protected.
82. CEP Services Matauwhi Limited, Royal Forest and Bird and Haititaimarangai Marae 339 Trust request that outstanding natural landscape maps from the RPS are inserted into the Proposed Plan maps. Patuharakeke Tw Iwi Trust Board Inc. request that the outstanding natural landscape overlay mapped in the RPS along Bream Bay to Waipu Cove be included in the Proposed Plan maps.
83. CEP Services Matauwhi Limited is also requesting the inclusion of rules to manage effects on outstanding natural landscapes and that the regional council carry out a landscape assessment of the CMA to identify landscape values as required under policy 15 of the NZCPS.
84. CEP Services Matauwhi Limited request that historic heritage on land is mapped (an example of the historic importance of the Russell waterfront is mentioned). Joiner C & K also highlight the need to acknowledge historic heritage on land with specific reference to the Rawene waterfront.

## Analysis and recommendation

85. Due to the jurisdictional issue discussed above as well as the RPS setting out regional and district plan responsibilities along with direction in various methods in the RPS associated with biodiversity, natural character and outstanding landscape/features, regional plans cannot make rules for land based values<sup>10</sup>. This includes outstanding natural landscapes. It is appropriate however that land based values are recognised as part of the overall weighing up of effects in the resource consent process. I am therefore

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<sup>10</sup> The Proposed Plan does include outstanding natural features and historic heritage mapping where they 'straddle' the CMA but not wider landscapes. This is purely for information purposes (signalling that a district council consent may also be required) and does not drive rules in the Proposed Plan.

recommending a new policy that recognises the importance of considering effects on adjacent land based values, when assessing activities in the CMA.

86. There is also an opportunity to expand the scope of this further to deal with other effects from water based activities on adjacent land. This includes availability/pressure on public facilities and infrastructure (such as car parking, toilets, boat ramps, jetties and wharves). Far North District Council supported wording that considers the adequacy of land based facilities in relation to moorings, marinas and aquaculture and I see no reason this could not be expanded to a general policy covering any activity in water that could put pressure on land based facilities.
87. The complete wording of the new policy can be found in the Proposed Regional Plan - S42 Recommendations.

***Specific comment on mapping outstanding natural landscapes in the coastal marine area (i.e. seascapes)***

88. NZCPS Policy 15 requires the avoidance of adverse effects on outstanding natural landscapes (including seascapes). The mapping undertaken in the RPS did not include mapping seascapes (purposefully) as council found that determination of boundaries of this marine context would be challenging and identification can be undertaken in other ways (scheduling for example).
89. I acknowledge that landscapes do not end at the high-water line and may include parts of the Coastal Marine Area. It is implicit that the coastal marine context of the identified ONLs exerts an influence on the values identified (and vice versa), and that inappropriate activities undertaken within the marine context of the terrestrial ONLs would have the potential to detract from those values.
90. It is important to remember that significant activities in the CMA will require a consent in any case. Given the challenge of identifying seascapes, effects, in my opinion, should be determined on a case by case basis at the resource consenting stage having regard to the scale of the activity. I also note that the NZCPS Policy 15(e) requires that “...regional policy statements and plans map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules” –mapping outstanding natural landscapes in the coastal marine area was not considered necessary given that almost all activities in the CMA with the potential to result in adverse effects on

landscape values require resource consent and any such impacts can be considered through that process – in other words the protection of landscape values occurs without the need for mapping. The same cannot be said for outstanding natural character or outstanding natural features given these areas tend to be more sensitive to a wider range of activities (i.e. there are more than visual effects at issue, which is the primary concern for outstanding landscapes).

## **Evaluation of recommended changes**

91. The new policy recognising land based values when assessing activities in the coastal marine area also do not, in my opinion, impose new tests or obligations. This is a legal requirement under S104 RMA when assessing resource consents however a policy will act as clear direction to decision makers.

## **The historic heritage criteria**

**Author: Jon Trewin**

### **Submission**

92. Heritage NZ has concerns with criteria used to determine the listing and mapping of historic heritage in the plan. Specifically:
- a. The narrow criteria against which items are assessed.
  - b. The use of a numerical approach
  - c. The threshold required for an item to merit inclusion on the schedule within a category that invokes rules.
  - d. The existence of just one category above the thresholds rather than the standard two.

### **Analysis**

#### ***Narrow Criteria***

93. Clough & Associates were tasked with identifying Northland's historic heritage in coastal and freshwater areas that was significant enough to warrant protection. An identification exercise was undertaken using the NZ heritage list, the archaeological site database and council records of coastal structures. Sites that were clearly in the aquatic environment, appeared largely intact or were in the NZ heritage list were prioritised for assessment (by

Clough initially and later by Liz Clark). Sites were assessed for their significance according to criteria contained in Policy 4.5.3 of the RPS with a quantitative scoring system.

94. Heritage NZ point to the criteria in the Whangarei District Plan as more complete than RPS Policy 4.5.3 and that this should supersede the criteria in the RPS as it fills any gaps. I note that the wording in the RPS states that the criteria in Policy 4.5.3 is the criteria to be used to identify historic heritage and that it is based on criteria used by the Historic Places Trust (now Heritage NZ).
95. I do not have an issue with referencing the fuller list of criteria within the Proposed Plan (as contained in the Whangarei District Plan) as it is more extensive than that in RPS Policy 4.5.3 and has been developed with, and endorsed by, Heritage NZ. However, as the historic heritage in the Proposed Plan has already been mapped according to criteria consistent with RPS Policy 4.5.3, I see no need to revise the criteria used in respect of these sites and areas. I note the submitter is requesting the insertion of the full list of criteria from Policy 4.5.3 of the RPS and their proposed additions into Proposed Plan Policy D.2.6. I have dealt with this as a separate key issue below.

### ***The use of a numerical approach***

96. Heritage NZ state that the use of a numerical approach is non-transparent and unnecessary and converts a value defined qualitatively into a number rather than employing a word (or words) that convey the appropriate level of significance. They request a wholly qualitative approach is used instead.
97. The merits of a quantitative vs qualitative approach to scoring was discussed in the report '*Northland Coastal and Freshwater Heritage Survey: Identification of Historic Heritage Resources Methodology*' by Brown and Clough (2015). They noted that:

*Quantitative and qualitative systems are similar in that they seek to assign a particular strength to the assessment criteria in order to define a threshold/ benchmark for scheduling. Critics of the qualitative system highlight that this is more subjective, as it is less transparent how a professional has established the particular values they have assigned and it is more open to interpretation. Conversely, critics of the quantitative system argue that it is more of a 'tick box' exercise and that professionals get hung up on arguing the 'numbers', rather than the heritage values.*

98. Further to this they argued that:

*Approaches which have no overtly quantitative system are seen as subjective. For example, the PAUP (Proposed Auckland Plan) methodology relies on a high occurrence of peer review, so it is not uncommon to have three different reviews of the same site. In practice, there is an element of subjectivity in any approach, depending on the criteria and weighting method used. However, the qualitative system can be less transparent than score sheets that show the weighting for each sub-criterion and how this influences the overall assessment value/score.*

99. Policy 4.5.3 of the RPS is flexible on whether a qualitative or quantitative methodology is applied to mapping historic heritage. In instances where qualitative assessment sheets are available and have been prepared by a suitably qualified professional, I have recommended that the sites/areas they be included in the Proposed Plan. Some examples include Te Kopua Kawai o te Whakaheke and Te Take Waimanoni. I am also recommending (see below) that several other sites be added which have supporting technical qualitative reports available by a trusted authority (Heritage NZ and the Department of Conservation).

100. I am confused why Heritage NZ feel that it is less transparent to include scoring. I would have thought having a score would, as Brown and Clough say above, show the weighting for each sub-criterion and how this influences the overall assessment value/score.

101. In any case, I believe that there is scope for both qualitative and quantitative methods to be accommodated given the broad scope of Policy 4.5.3. Again, I see no need to revise the criteria used in respect of these sites and areas already mapped in the Proposed Plan.

***The threshold required for an item to merit inclusion on the schedule within a category that invokes rules***

102. Heritage NZ contend that the threshold for an item to be included in the schedule in a category that invokes rules is inconsistent with the RPS and the approach in the Whangarei District Plan. The inconsistency arises from the fact that the scoring system in the methodology proposed by Clough requires two categories to score at least 3 (High) out of 4. The RPS only requires an assessment of *one* or more criteria so in theory, a strong showing in one criteria is enough to get the site listed in the plan. The Whangarei District Plan requires one criteria to be satisfied in order to be listed in this plan.

103. I agree that the approach lacks consistency with the RPS and Policy 4.5.3 in this regard. The requirement to score at least 'high' in two criteria was seemingly derived from the RPS (according to the methodology<sup>11</sup>) however this is not actually the case as the RPS only requires an assessment of *one* or more heritage criteria. A simple way around this, I believe, is to amend the threshold in the site assessment reports so that anything scoring '4 (Outstanding) in any category meets the test to be included in the plan.

***The existence of just one category above the thresholds rather than the standard two.***

104. Heritage NZ contend that the Proposed Plan list of historic heritage should include two categories, Category A and Category B. In the draft Regional Plan, both categories were included. Category B was akin to a 'holding room' where sites were identified as potentially important historic heritage but no particular assessment had been carried out. Category A was where good evidence existed of the heritage values of a given site or area. These tended to be sites already listed by Heritage NZ. During the composition of the Proposed Plan, further evaluation was carried out on several Category B sites. These were taken from the long list of Category B's as they were clearly in the coastal marine area and tended to be intact buildings and structures rather than archaeological remains.

105. Whilst it is likely there will be further additions to the list of historic heritage during the life of the regional plan (10 years) I do not consider that there will be enough identified to warrant having two categories of historic heritage. From my assessment of the remaining entries on the Category B list, whilst many of these sites are in the coastal environment, they appear to be outside the CMA. The Auckland Unitary Plan, given as an example by the submitter, includes a very long list of heritage but most of this is on dry land and not in the CMA (noting that it this incorporates a regional coastal plan and district plan).

106. I also do not consider it necessary to have a method that commits the Council to further mapping of historic heritage as this is already directed in the RPS (Method 4.5.4 (3)). The Proposed Plan is a point in time and as a living document, will be added to as information is updated and policy changes.

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<sup>11</sup> *Northland Coastal and Freshwater Heritage Survey: Identification of Historic Heritage Resources Methodology* by Brown and Clough (2015).

## **Recommendation**

107. Accept in part the Heritage NZ submission by amending the threshold of significance so that anything scoring '4 (Outstanding) in any category meets the test to be included in the plan. This will require revision of the historic heritage assessment sheets included as background reports to the Proposed Plan. This will not practically change what is included in the Proposed Plan but will demonstrate that the methodology used complies with RPS Policy 4.5.3.

## **Use of historic heritage management plans**

### **Submission**

108. GBC Winstone request the removal of the historic heritage site annotation over the disused wharf at Portland. The main reason they believe is that for health and safety reasons, elements of the structure may need to be removed as part of the ongoing management of the structure. The rules in the Proposed Plan would require a consent as a non-complying activity for the removal of any part of the structure under existing rule C.1.1.20.
109. GBC Winstone state that the structure also needs to be maintained in a condition suitable to permit ongoing access by fisherman and other wharf users. They hold a consent to occupy the foreshore and seabed for the wharf until 2019 when the consent expires (CON20010505910). They state that maintaining public access is a condition of this resource consent

### **Analysis**

110. I do not believe that maintaining public access is still a requirement. In 2005 GBC Winstone applied to vary the terms of the consent by deleting the condition which requires public access be permitted (subject to operational and maintenance requirements) and varying another condition requiring the wharf be maintained for safe access for the consent holder's employees and the public. The variation sought to delete the requirement to maintain the wharf for public access. This variation was granted by Council on 10 August 2005.

111. I appreciate that this consent will expire in 2019 and GBC Winstone's may need to renew their consent (although proposed rules in the Proposed Plan permit authorised wharfs and jetty's present before 2004 in coastal commercial zones). The assessment of the wharf by Bill Edwards of Heritage NZ found that it remains of significant historic value and with the piles remaining in reasonable condition, but metal elements are corroding and the decking has been removed. Council's own assessment by Clough & Associates supported this assertion.
112. I believe that the most appropriate means of managing the health and safety aspects of the wharf, whilst safeguarding its historic heritage values, are for GBC Winstone's to undertake works within the scope of an agreed management plan. A management plan would set out how the wharf should be maintained, giving greater flexibility to remove those hazardous or failing aspects whilst safeguarding those parts in good condition. The management plan should be developed in consultation with Heritage NZ.
113. Presently, proposed rules deem removal (demolition or partial demolition) of a historic heritage structure to be a non-complying activity. Policy D 2.6 qualifies that significant adverse effects are deemed to have been avoided (or not to have occurred) if the historic heritage is irreparably damaged and there are significant health and safety risks if it were to remain – a relatively high bar.
114. To give more certainty around the management of this historic heritage site, I propose a dedicated rule that allows activities undertaken within the scope of an agreed (with Heritage NZ) historic heritage management plan to be a controlled activity (if not already otherwise permitted). This rule could be extended to other mapped historic heritage sites if it is accepted that there is scope.

## **Recommendation**

115. Accept in part the relief by GBC Winstone by including a new rule that allows activities within the scope of a historic heritage management plan as agreed with Heritage NZ to be a controlled activity.

## **Substantive changes to Policy D.2.6 (Historic Heritage)**

## Submission

116. Heritage NZ are requesting extensive revisions to this policy as detailed below. Some of these changes relate to challenges they make to the historic heritage criteria (addressed separately as a key issue).

## Analysis

117. Their first request is proposed wording to amend clause 1 as follows *‘recognising that historic heritage sites and historic heritage areas in coastal and fresh water identified in I ‘Maps’ have been identified in general accordance with Policy 4.5.3 of the Regional Policy Statement for Northland, and in particular the following criteria using a qualitative assessment methodology:*

- a) Archaeology...*
- b) Architecture...*
- c) Technology...*
- d) Scientific...*
- e) Rarity...*
- f) Representativeness...*
- g) Integrity...*
- h) Context...*
- i) Vulnerability...*
- j) People....*
- k) Events*
- l) Patterns*
- m) Identity*
- n) Public esteem*
- o) Commemorative*
- p) Education*
- q) Tangata Whenua*
- r) Statutory*

Policy 4.5.3 of the RPS lists the range of criteria that historic heritage is to be assessed. Heritage must meet one of this list of criteria to be scheduled in plans. The RPS does however give flexibility for councils to include heritage that falls outside of this range of criteria. Whilst I support the expanded range of criteria proposed by the submitter as being helpful, as historic heritage in the Proposed Plan has already been mapped according to the RPS criteria I do not believe it needs to be used to retrofit existing heritage

assessments. Nevertheless, I do consider it appropriate that these proposed additional criteria are relevant considerations for the assessment of effects on historic heritage. The values above proposed by Heritage NZ that I do not consider have already been captured by the listed criteria in RPS Policy 4.5.3 include 'vulnerability', 'patterns', 'public esteem', 'commemorative', 'education'. I do not however support the reference to 'qualitative' assessment however as I prefer the more transparent quantitative approach proposed by Clough (whilst noting that qualitative assessments may be appropriate where work has already been undertaken by a suitably qualified expert).

118. In terms of the other changes, I address each below:

- a. I agree that their request to amend clause 3)(1) of the policy to state that the determination of whether historic heritage is irreparably damaged must be made by a heritage professional is sensible and recommend it be added. In terms of their proposed amendment to 2)(3) and 3)(2), I agree with the inclusion of 'additions' as this is consistent with the intent of the clause but not 'affecting the setting' as this seems out of place.
- b. I also agree with the additional wording requested to 4)(2)(1) requiring consultation where the sites is listed by Heritage NZ or on the archaeological site register.
- c. Minor changes to 5)(5) to refer to 'restoration' not 'conservation 'plans . I agree that the proposed wording is more accurate as not every site needs restoration. Also a minor change to 5)(6) by including reference to 'experienced' practioners which seems sensible as experience is a relevant consideration alongside qualifications and I recommend is accepted.
- d. The addition of new clause 5)(7) referencing the ICOMOS charter is I believe appropriate (I am recommending a reference be made to the charter in the Proposed Plan)..
- e. The addition of a new clause, recognising that any previously unidentified historic heritage shall be managed in a way that avoids damage or destruction until its significance is assessed and adverse effects can be appropriately avoided or mitigated. I am unclear as to how this will be applied as it seems overly broad (noting the scope of 'historic heritage' under the RMA), unlike the more focussed proposed condition below relating to accidental discovery of archaeological remains.
- f. The addition of a new clause on determining if an archaeological advice note or Accidental Discovery Protocol advice note should be included if there is a possibility of unrecorded archaeology being encountered or the proposal will or may affect recorded archaeological sites. I agree with the submitter that a clause

is necessary to cover accidental discovery protocol as a condition of consent. I have labelled this a new clause 6).

- g. The addition of a new clause 7) recognising that, Heritage New Zealand shall be considered an affected person where sites are listed by HNZ or are pre-1900 archaeological sites. I agree with the submitter that this wording is appropriate given the submitter's statutory responsibilities.
- h. The addition of a new clause stating that Northland Regional Council shall consider providing resources to enable further staged work to be undertaken (subject to the Northland Annual Plan process) to determine the suitability (or otherwise) of additional mapped Historic Heritage Sites or Areas for inclusion in the Schedule. I do not recommend accepting this change. We have avoided included non-regulatory content in the plan.
- i. The addition of a new clause recognising that Historic Heritage is based on the following principles: *'our inheritance and legacy; the recognition of both tangible and intangible heritage; a story-based approach that acknowledges and respects all our cultures; under-pinning our local and community sense of place and identity'*. I do not believe this adds value to the policy in contrast to the more directive nature of the other clauses.

## What is a Regionally significant surf break?

**Author: Michael Payne**

### Submissions

- 119. Surfbreak Protection Society support the inclusion of Regionally Significant Surf Breaks in the Proposed Plan and seek amendments to identify all surf breaks shown in Section I - Maps as Regionally Significant Surf Breaks.

### Analysis

- 120. When developing rules and policy for managing surfbreaks, council staff (including myself) worked with a working party to identify and assess surf breaks in Northland. The working party consisted of representatives from Northland's boardriders clubs and the Surfbreak Protection Society. The assessment process involved scoring various attributes of surf

breaks which ranked surf breaks according to their overall significance score. Council staff then used the ranked list to determine which surf breaks are regionally significant.

121. The Surfbreak Protection Society oppose the threshold used to determine which surf breaks are identified as Regionally Significant Surfbreaks. They also appear to oppose the concept of separating the surf breaks into classes. The submitters preference is to identify all mapped surf breaks as being regionally significant, excluding Nationally Significant Surf Breaks identified in the New Zealand Coastal Policy Statement (NZCPS). Information on how the threshold for Regionally Significant Surf Breaks was determined can be found in a report titled *Application of Methodology for Identifying Regionally Significant Surfbreaks*<sup>12</sup>
122. It is helpful to look at how the term “regionally significant” is applied to other resources under the RMA.
123. The RMA itself uses a hierarchy<sup>13</sup> to explain the importance of a natural resource. Similarly a three tired hierarchy, using the terms “national”, “regional” and “local is used throughout the resource management field, including the NZCPS to explain the relative significance of everything from natural character to roading. In a practical sense, the use of this hierarchy recognises that some resources have more value than others. In the policy context, it can allow policy to be tailored to suit the value of the resource. For example, more protective policy can sometime be applied to national or regionally significant resources. This same level of protection may not be justifiable if it was applied across the whole resource. In other cases, policy may encourage the improvement of resources with less value.
124. A brief desk top review of the way regionally significant natural resources are identified in other regional plans revealed that in most cases schedules of regionally significant resources do not include all examples of the resource within the region. For example, there are around 1500 wetlands in the Taranaki region but only 29 are scheduled in the Taranaki Regional plan. The identification of regionally significant wetlands in Otago and the regionally significant landscapes in Canterbury also use a threshold to determine which resources area regionally significant and which are not. Only those resources that meet or exceed the threshold are included in the respective regional plans.

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<sup>12</sup> Northland Regional Council, 2017, *Methodology for Identifying Regionally Significant Surfbreaks*

<sup>13</sup> Sections 6 and 7

125. In addition to looking at how other regional councils identify regionally significant resources it is also important to look at how significant resources are identified in Northland. During the past three or four years Northland Regional Council has commissioned investigations to identify significant ecological areas, significant wetlands, natural character and outstanding natural landscapes. All of these investigations set a threshold, with some resources ultimately being considered regionally significant while others were not regionally significant.
126. It's my view that the identification of regionally significant surf breaks should be consistent with the approach taken to identify other significant resources.
127. While I recognise the Surfbreak Protection Societies knowledge of surf breaks and commend their work to ensure surf breaks are recognised in resource management in Northland and elsewhere in New Zealand I do not agree with their view on this matter and remain of the view that it is important to distinguish between regionally significant surf breaks and other breaks. My view is that this approach clearly signals the relative importance of these break and avoids the risk of diluting the importance of high value breaks but grouping them with breaks with lower value.

## **Recommendation**

128. Retain *Regionally significant surf breaks* and *Other surf breaks* in section "I Maps" as notified.

## **Policy D.5.26 – Avoid, Remedy or Mitigate**

**Author: Michael Payne**

## **Submissions and Analysis**

129. Policy D.5.26 states that significant adverse effects on Regionally Significant Surf Breaks are to be avoided. Tony Baker and The Surfbreak Protection Society sought amendments to explicitly state that other adverse effects are avoided, remedied or mitigated. While council and the submitters are seeking the same outcome on this matter I do not believe the amendments are necessary.

130. The Resource Management Act requires every person to avoid, remedy, or mitigate adverse effects of an activity<sup>14</sup>. This duty applies to all activities – irrespective of whether it is stated in policy or not. I do not believe the relief sought by the submitters is necessary.

## Recommendation

131. Retain *policy D.5.26 – Significant surf breaks as notified*

## Submissions requesting changes to the Significant Ecological Areas (SEA) mapping

**Author: James Griffin**

### Submissions and Analysis

81. In response to submitters requesting changes to SEA mapping, Council commissioned advice from the consultancy that co-ordinated the original mapping and ecological assessment process. The report is included in **Appendix C - Marine Significant Ecological Areas submission responses**, and provides recommendations in response to submitters requests.

### Recommendation

82. Council accepts the assessment in the above report and where this includes SEA boundary adjustment, I recommend the amended maps are incorporated into the plan.

### Other matters

83. Refer to Appendix A for the summary of submission points, analysis and recommendations made on the significant natural and historic heritage provisions not addressed in the key matters sections of this report.

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<sup>14</sup> Sections 5 and 17

## Appendix A - Response to other matters raised in submissions

Note – this table does not include the summary of submission points, analysis and recommendations made on the <topic> provisions addressed in the key matters sections of the report.

<b>Significant areas (general)</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
General	Far North Holdings Limited and Bay of Islands Planning are requesting consistent terminology is applied to the Proposed Plan in terms of significant areas using term 'significant value' and the like.	I agree that the Proposed Plan is inconsistent in this regard as there are a number of different terms used. There needs to be a clear and consistent term used throughout.	I propose the term 'significant areas' be used and have amended terminology in the Proposed Plan accordingly.
Maps	Johnston J is concerned that maps of significant values do not adequately cover the Waitangi estuary.	The submitter provided no specific detail as to what significant values they believed are not mapped. I have also reviewed the mapping of significant natural and historic heritage over the Waitangi estuary. The entire estuary is mapped as having significant ecological values as well as high natural character values for the northern and southern arms and has an outstanding natural feature at its furthest reach (Haruru Falls). In terms of other values, we have not been approached by tangata whenua to map the Waitangi estuary for its cultural significance (we put out a request in 2017 for tangata whenua to nominate sites of cultural importance to be included in the Proposed Plan).	No change

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
Definitions	Heritage NZ request that a definition of archaeological site be added to the Proposed Plan.	Heritage NZ request the addition of this definition to make the plan more user friendly. 'Archaeological site' is not defined in the RMA but is defined in the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT) whereas 'historic heritage' is only defined in the RMA. I accept it would be helpful to this definition.	Include the proposed definition for an 'archaeological site'.
Definitions	Heritage NZ request that the RMA definition of "historic heritage" be added to the Proposed Plan.	The approach taken in the Proposed Plan is to explicitly exclude definitions that are already defined in the RMA to avoid unnecessary duplication.	No change
Definitions	CEP Services Matauwhi Limited request amending the definition of 'historic heritage area' and 'historic heritage site' to include areas and sites on land.	Areas and sites of historic heritage where rules are imposed are confined to the Coastal Marine Area. Amending the definition to include areas and sites on land is outside the scope of regional council jurisdiction under S30 RMA. I am however recommending a policy that recognises adjacent effects on land based values, which will include 'historic heritage' (the broader term as defined in the RMA) when considering the effects of activities in waterbodies.	No change, but note proposed new policy regarding consideration of land-based effects (refer to key issue – <i>request to map/acknowledge additional significant areas</i> )
Definitions	Heritage NZ request that the following definitions be amended in the Proposed Plan: <ul style="list-style-type: none"> <li>• Historic Heritage Area</li> <li>• Historic Heritage Site</li> </ul> The amendment would recognise that there is a parallel listing process through the Heritage New Zealand Pouhere Taonga Act 2014.	'Historic Area' is defined separately in the Heritage New Zealand Pouhere Taonga Act 2014 to include 'Wahi Tupuna' and 'Wahi Tapu'. I agree that the Proposed Plan definition should acknowledge that historic heritage areas in the plan are also listed under the Heritage New Zealand Pouhere Taonga Act 2014. I also agree with the similar logic by the submitter for	Amend the definitions of Historic Heritage Area and Historic Heritage Site to acknowledge listing under the Heritage New Zealand Pouhere Taonga Act 2014.

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p>Additionally, Royal Forest and Bird request that the definition of historic heritage areas be combined with that of sites and the plan recognise 'historic heritage' as defined in the RMA.</p>	<p>acknowledging this with regard to historic heritage sites. However, it is important to note that any additional areas/sites once the Proposed Plan is made operative can only be included in the Proposed Plan by way of the RMA Schedule 1 process.</p> <p>In relation to Royal Forest and Bird's request, I do not agree with combining these two definitions. There are some provisions that relate exclusively to historic heritage areas and other that relate solely to historic heritage sites. Providing separate definitions provides greater clarity. In terms of including the RMA definition of historic heritage, the approach taken in the Proposed Plan is to explicitly exclude definitions that are already defined in the RMA to avoid unnecessary duplication.</p>	
Definitions	<p>Royal Forest and Bird request that the definition of historic heritage areas be extended beyond seascapes as, in the Proposed Plan, historic heritage extends into river beds.</p>	<p>For reasons stated above (refer to the jurisdiction key issue) 'historic heritage areas' (and 'sites') in the Proposed Plan is confined solely to the CMA. (refer also to key issue – <i>request to map/acknowledge additional significant areas</i>)</p>	No change.
Definitions	<p>Heritage NZ are proposing various definitions to add to historic heritage sites:</p> <ul style="list-style-type: none"> <li>• Addition</li> <li>• Alteration</li> <li>• Demolition</li> <li>• Maintenance</li> <li>• Partial demolition</li> </ul>	<p>I agree that these definitions provide additional clarity and should be included. The proposed definitions relate well to additions/alterations and demolition of building. They do not relate so well to structures (such as wharves). I therefore propose slightly amended wording to overcome this.</p>	<p>Include definitions of site addition, alteration, demolition, maintenance, partial demolition, repair and seismic upgrading.</p>

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<ul style="list-style-type: none"> <li>• Repair</li> <li>• Setting</li> <li>• Seismic upgrading.</li> </ul>	I do not agree with the request to include a definition of 'setting'. This term is not used in the plan and although similar to 'context' used in Policy D.2.6, the definition proposed by Heritage NZ refers to a land based setting. Land based sites are not included in the Proposed Plan.	
Policy D.2.6	CEP Services Matauwhi Limited are requesting the deletion of clause 3 (3) as the submitter believes the policy inappropriately dismisses the value of historic heritage where the physical context is lost.	Clause 3 deals with the likelihood of 'significant adverse effects'. However, this does not come across well in the policy. As presently written, the policy is too blunt by stating that 'there will not be' significant effects. I recommend a change to state that 'it is likely' there will not be significant adverse effects in respect to 3) (1)-(3).	Amend wording of clause 3 to state that is 'likely' there will not be significant adverse effects.
Policy D.2.6	Donald A is requesting an additional clause 2 (5) ' <u>loss of authenticity, integrity and original fabric.</u>	I believe that 'integrity' and 'loss of authenticity' are already covered through existing points 2) (1)-(4). 'Original fabric' is covered through (1) and (3).	No change
Policy D.2.6	Far North District Council comment that the heritage map should be reviewed and if any heritage sites, buildings or objects have been overlooked in error, the new regional plan is written in a manner that will provide for their protection.	I am recommending some additional historic heritage sites are included, based on a couple of submissions. I consider that the policy is flexible enough to apply to other historic heritage that may not be included in Proposed Plan maps, but emerge subsequently (either through accidental discovery or because the site has been overlooked). In these instances, the onus will be on other parties (not council) to 'demonstrate' the significance of the historic heritage having regard to Policy 4.5.3 of the RPS and Policy D.2.6 of the Proposed Plan.	No change

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
Policy D.2.6	Fieldman P has requested the following wording be added to the notification criteria: <u><i>Any change requiring resource consent and/or building consent must be notified. Such notification must include a placard prominently displayed outside the location of said construction/change of use before earthworks or construction is consented. Timing to be sufficient to allow local community and interested parties to make submissions.</i></u>	My reading of the submission is that the submitter has concerns with development in a special character zone in the Far North District Plan and the lack of notification. Although the plan can direct when activities must be notified (77D(a) RMA), I do not consider this need be the case here and the normal tests under the RMA are sufficient. It must be noted that historic heritage as mapped in the plan is only in the coastal marine area.	No change
Policy D.2.6	Straterra is concerned about the requirement to avoid certain effects on heritage in D.2.6. but accepts the Regional Council's explanation in the Proposed Regional Plan that this is required by Policy 4.5.3 in the higher order Regional Policy Statement.	I am unclear whether the submitter is seeking changes. The test in the RPS is to avoid 'significant adverse effects'. I am recommending the inclusion of the word 'likely' before 'significant' in clause 2. This recognises that significant effects are not guaranteed, but there is a distinct possibility that they will occur if heritage values are compromised.	Include the word 'likely' before 'significant' in clause 2 of the policy.
Policy D.2.6	Whangarei District Council are concerned that the permitted rules of the plan do not give effect to this policy and this approach may be contrary to Method 4.6.3(2)(v) of the RPS.	The Proposed Plan contains rules to manage the effects of activities on historic heritage. One of the conditions of permitted rules is that the activity does not alter, damage or destroy a historic heritage site. Without more specific examples, I am unsure what changes the submitter seeks.	No change.
Maps	Heritage NZ is requesting changes to the description of the historic heritage mapping layer as follows:	I am recommending that an additional historic heritage area be included in the Proposed Plan – (Tawatawhiti / Mair's Landing Historic Area) as requested by	Make amendments to historic heritage descriptions in I Maps as outlined in <i>Proposed Regional Plan for Northland – S42A recommended changes.</i>

Historic Heritage			
Provision	Summary of main submission points	Discussion	Recommendation
	<p>Historic Heritage:  <u>5</u> <u>8</u> historic heritage areas.  <u>3</u> <u>6</u> of these are water based areas that form part of a cultural heritage landscape in combination with land based historic sites. They have been assessed by Clough and Associates and <u>Heritage New Zealand Pouhere Taonga</u> and are considered to be significant enough to include in the plan.</p> <p>Site and area reports <u>comprising the Historic Heritage Schedule</u> are available on the regional council's website.</p> <p><u>Recorded New Zealand Archaeological Association ("NZAA") archaeological sites protected under the Heritage New Zealand Pouhere Taonga Act 2014 ("HNZPTA") are also mapped as a live layer.</u></p> <p><u>Note:</u>  <u>Non-recorded archaeological sites that predate 1900 also receive automatic protection under the HNZPT Act.</u></p> <p><u>Note: Northland Regional Council shall consider providing resources</u></p>	<p>Heritage NZ below. This would bring the total to 6 (but not 8 as proposed by the submitter). I agree with the wording change to include 'Heritage New Zealand Pouhere Taonga as this recognises that 3 out of the 6 assessments were undertaken by Heritage NZ.</p> <p>I agree with most of the changes sought as I believe they add clarity. The changes I don't agree with are:</p> <ul style="list-style-type: none"> <li>• References to archaeological site mapping (they aren't mapped in the Proposed Plan)</li> <li>• The note about council providing resources to enable further staged work (The Proposed Plan does not include non-regulatory methods).</li> </ul>	

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p><u>to enable further staged work to be undertaken (subject to the Northland Annual Plan process) to determine the suitability (or otherwise) of additional mapped Historic Heritage Sites or Areas for inclusion in the Schedule.</u></p>		
Maps	<p>Heritage NZ have recommended the additional scheduling of three sites in the Proposed Plan. These are:</p> <ul style="list-style-type: none"> <li>• Tawatawhiti / Mair's Landing Historic Area</li> <li>• HMNZS Puriri &amp; Memorial</li> <li>• SS Ventnor</li> </ul> <p>Heritage NZ has provided site reports within the body of their submission.</p>	<p>A final report is now available for the Tawatawhiti / Mair's Landing Historic Area. The report was produced following the scheduling of the site as a 'Historic Area' by the Heritage NZ Board. As such, I would recommend that the area immediately along the foreshore (to the extent identified by Heritage NZ) be included in the Proposed Plan as a Historic Heritage Area.</p> <p>Heritage NZ have provided a site report in their submission for the HMNZS Puriri Memorial however this does not include the location of the HMNZS Puriri itself. The memorial is on land and is already scheduled in the Whangarei District Plan. Since their original submission, Heritage NZ have followed this up with coordinates for the site of the wreck and I therefore recommend that this site be included in the plan.</p> <p>The SS Ventnor (wrecked 1902) has been gazetted as an archaeological site. As such, an authority is required from Heritage NZ to modify or destroy this site. I understand from Heritage NZ that the</p>	<p>Accept the request to include the following historic heritage sites in the Proposed Plan planning maps:</p> <ul style="list-style-type: none"> <li>• Tawatawhiti / Mair's Landing Historic Area.</li> <li>• HMNZS Puriri</li> <li>• SS Ventnor</li> </ul>

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		HNZPT and RMA can complement each other in this regard and therefore should be included in the Proposed Plan.	
Maps	Donald A requests that the maps retain the present historic heritage sites and areas but with the addition of reference numbers with an accompanying schedule appended to the text document to indicate what the sites and areas are.	I accept it would be helpful to have the assessment reference number when the icon on the map is highlighted and agree this should be added. A full schedule of historic heritage sites and areas is available in ' <i>Northland Coastal and Freshwater Heritage Survey: Identification of Historic Heritage Resources Methodology</i> ' (Nov 2015) Appendix B. I agree that Appendix B could be pulled out and included under each entry on the planning maps as a quick reference guide.	Include a reference number and schedule when the relevant icon is highlighted on the Proposed Plan maps.
Maps	Heritage NZ requests that the heritage maps and rules in both the CMA and freshwater bodies be retained.	Whilst historic heritage rules and maps are being retained in relation to the CMA, the jurisdictional issue discussed as a key issue above requires that they be removed from the freshwater section of the Proposed Plan.	Delete maps and rules relating to historic heritage outside the coastal marine area.
Maps	Ruakaka Parish Resident and Ratepayers Association request the mapping as heritage sites of: <ul style="list-style-type: none"> <li>• The old whaling station ruins at Whangamumu</li> <li>• The old gun emplacements at Home Point, Whangarei Harbour.</li> </ul>	Taking each in turn: <ul style="list-style-type: none"> <li>• The old whaling station, located in a DOC reserve, is predominantly above Mean High-Water Springs. The exception is elements of the old concrete slipway that exist on the foreshore (the slipway was used to haul whales off the beach that had been delivered by boats). The site has been</li> </ul>	Include the concrete slipway located on the beach (part of the old whaling station ruins at Whangamumu) as a historic heritage site in the Proposed Plan maps. Reference the DOC assessment in the Proposed Plan maps.

Historic Heritage			
Provision	Summary of main submission points	Discussion	Recommendation
		<p>assessed<sup>15</sup> by DOC staff as ‘the only substantial physical remains of an industrial whaling station in Northland’. By itself, the concrete slipway is not likely to be significant however as part of the fabric and ‘narrative’ of the site, it has greater significance. Given the work undertaken by DOC assessing the significance of the site, I recommend that the concrete slipway be included in the plan as a HH site.</p> <ul style="list-style-type: none"> <li>• The old gun emplacements are located above Mean High-Water Springs and therefore out of scope for inclusion in the Proposed Plan.</li> </ul>	
Maps	Upperton T requests the inclusion of the Waimate North Heritage Area on the Proposed Plan maps.	The Waimate North Heritage Area, which is included in the Far North District Plan, sits entirely on land and not in the CMA (refer to ‘jurisdictional issue’ discussion above).	No change.
Maps	Joiner C & K support the inclusion of rules to identify and protect heritage on the harbour edge of Rawene, in particular the boatshed and shop but believe that the total area of Rawene collectively forms historic heritage meaning that less significant buildings need controls.	I agree with the submitter that greater recognition is needed of land based values – e.g. special character zones in district plans - as development in the CMA can affect the context of land based heritage. I am therefore recommending a policy that recognises the importance of considering adjacent effects on land based values. In terms of recognising the heritage values of other buildings on piles, there are a couple of other listings in Rawene including the old	Add new policy to land based significant values outside the coastal marine area. (refer to key issue – <i>request to map/acknowledge additional significant areas</i> )

<sup>15</sup> <http://www.doc.govt.nz/Documents/conservation/historic/by-region/northland/whangamumu-whaling-station-historic-heritage-assessment.pdf>

<b>Historic Heritage</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		butcher shop and adjacent Four Square store.	
Maps	Heritage NZ request changes to the Appendix B: Preliminary List of Sites for Category A and B Historic Heritage Sites and Historic Heritage Areas' minor errata relative to New Zealand Heritage List / Rārangī Kōrero name / entries detail contained in the Clough, Rod; Brown, Adina Report comprising Section 32 of the Proposed Plan.	The proposed changes relate to correct minor errors in the list of sites and areas in the background report by Clough & Associates that sits outside the Proposed Plan.	Correct minor errors.
Appendix (new)	Heritage NZ request the insertion of a new H4 Appendix to include a copy of the ICOMOS NZ Charter for the Conservation of Places of Cultural Heritage Value Revised 2010 (the ICOMOS Charter). The charter sets out principles to guide the conservation of cultural heritage in New Zealand and guides professionals, communities and organisations involved in the conservation and management of cultural heritage.	Whilst I accept that this may be helpful to plan readers, I do not consider that the whole document needs to be inserted into the Proposed Plan. Consistent with the approach taken for other technical documents that sit outside the plan, I recommend a reference be included in the Proposed Plan (in this case in Policy D.2.6).	Add a reference to the ICOMOS Charter in Policy D.2.6.

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
Definitions	Haititaimarangai Marae 339 Trust request the addition of the following definition of natural character:	A list of attributes that can comprise natural character is already included in the NZCPS and in Appendix 1 of the RPS. These	No change.

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p><u><i>The Natural Character of rivers lakes and wetlands may include such attributes and characteristics as:</i></u></p> <p><u><i>a) natural elements, processes and patterns, chemical, biophysical, ecological, geological, geomorphological and morphological aspects;</i></u></p> <p><u><i>b) natural landforms;</i></u></p> <p><u><i>c) the natural movement of water and sediment including hydrological and fluvial processes;</i></u></p> <p><u><i>d) places that are wild and scenic;</i></u></p> <p><u><i>e) a range of natural character from pristine to modified.</i></u></p>	<p>attributes of natural character are repeated in Appendix I (Maps) in the Proposed Plan. It is not necessary to repeat this elsewhere in the Proposed Plan.</p>	
General submission on plan approach	<p>Patuharakeke Te Iwi Trust Board are unsure how high natural character will receive sufficient protection in the application of the Plan. Only Outstanding Natural Character areas appear to trigger any action in the proposed plan.</p>	<p>High natural character is protected to a lesser extent than outstanding natural character under the NZCPS and RPS. This is reflected in the Proposed Plan with effects on high natural character being a relevant consideration for some rules but not the trigger. I am however proposing new objectives and policies to manage adverse effects on natural character in the Proposed Plan</p>	<p>Include objectives and policies in the regional plan that manage adverse effects on natural character. <i>(Refer key issues - request for new objectives and policies to protect natural character, outstanding natural landscapes, historic heritage, outstanding natural features and significant indigenous biodiversity)</i></p>
General Submission on the Rules	<p>CEP Services Matauwhi Limited request that all rules applying to significant ecological areas also include all areas of high and outstanding natural character mapped in the RPS.</p>	<p>Rules relating to outstanding natural character often align with or are the same as those for significant ecological areas in the Proposed Plan. This recognises that national direction to protect these values is equivalently strong ('avoid adverse effects' and 'protect'). High natural character, which is less sensitive than outstanding natural character and where there is no imperative</p>	<p>No change.</p>

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		to 'avoid adverse effects' should not be subject to the same rules and policy tests.	
General submission/ coastal rules	Whangarei District Council are requesting that the Proposed Plan is amended to include effects on high natural character areas as matters of control/discretion for controlled and restricted discretionary activities within the CMA.	This matter has been addressed individually in the relevant coastal activities S42A report. I do not believe a blanket application is appropriate in all circumstances.	Refer to the relevant coastal activities S42A report.
General Submission on Rules, Policies and Maps	<p>CEP Services Matauwhi Limited request that:</p> <ul style="list-style-type: none"> <li>• There is an assessment of natural character of rivers, lakes and wetlands and their margins that have high or outstanding natural character.</li> <li>• The insertion of further policies that recognise, provide and protect natural character of rivers, lakes, wetlands and their margins.</li> <li>• The revision of all rules in the Proposed Plan on activities that can adversely affect the natural character rivers, lakes, wetlands and their margins.</li> </ul>	<p>In terms of further mapping of natural character in rivers/streams and wetlands I refer to Council decisions for a similar request through consultation on the RPS. That is while 6(a) requires natural character of freshwater bodies and their margins be protected there is no mandatory requirement to map this (there is no NZCPS equivalent). Protection can therefore be applied more generically via Proposed Plan rules such as vegetation clearance, structures, water takes, bed disturbance rules and the like. Additionally, the level of protection required outside of the coastal environment is lower (only 'significant' adverse effects are to be avoided) and I believe these rules give effect to this requirement.</p> <p>The implementation of the National Policy Statement for Freshwater means the Proposed Plan identifies important elements of natural character in outstanding waterbodies and natural wetlands and the rules are accordingly</p>	<p>Include objectives and policies in the regional plan that manage adverse effects on natural character. <i>(Refer key issues - request for new objectives and policies to protect natural character, outstanding natural landscapes, historic heritage, outstanding natural features and significant indigenous biodiversity).</i></p>

Natural Character			
Provision	Summary of main submission points	Discussion	Recommendation
		stricter to protect them. I am also proposing new objectives and policies to manage adverse effects on natural character in the Proposed Plan.	
General submission on policies	Bay of Island Maritime Park Inc. are requesting policies addressing the preservation of natural character and protecting marine ecosystems from the adverse effects of fishing activities. Royal Forest and Bird also seek policies and rules to control the effects of fishing (in relation to protecting the values of significant ecological areas).	I am proposing new objectives and policies to manage adverse effects on natural character in the Proposed Plan. Direct management of fishing (in terms of setting quota limits) is set by other legislation (and by the Ministry of Primary Industries). Marine reserves/parks which can restrict commercial fishing are also created by other legislation. The Proposed Plan does contain objective, policies and rules however to protect significant ecological habitats that fish inhabit (from disturbance, dredging and the like). I understand that very recent case law does give scope for regional councils to include rules in relation to the management of fishing activities to protect biodiversity ( <i>Attorney-General v Trustees of the Motiti Rohe Moana Trust</i> , 2018) however at present, we do not have enough information to inform the setting of rules on this. This would also require significant analysis through a s32 evaluation that is not currently available and a sufficient level of supporting information/evidence is not provided in the submissions.	Include objectives and policies in the regional plan that manage adverse effects on natural character. ( <i>Refer key issues - request for new objectives and policies to protect natural character, outstanding natural landscapes, historic heritage, outstanding natural features and significant indigenous biodiversity</i> ). But do not recommend including policies and methods to manage the effects of fishing on significant ecological areas
Maps	Te Hui Amorangi Ki Te Tokerau Trust Board request the removal or partial removal of the outstanding natural	Te Hui Amorangi Ki Te Tokerau Trust Board made a submission on the proposed RPS maps requesting amendments to High	No change.

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p>character overlay from Part OLC 251, Te Haumi.</p>	<p>Natural Character mapped adjacent to the Te Haumi estuary. Some modifications were made to the mapping through Council decisions, reducing the area of high natural character. Te Hui Amorangi Ki Te Tokerau Trust Board did not however at the time express any concern about the outstanding natural character mapped in the estuary itself.</p> <p>The Trust contends that the overlay will infringe on private property rights in a way that will prevent the Trust from develop its titles and contribute to social, economic and cultural wellbeing. The scope to change maps that have already been made operative through the RPS is limited. The RPS gives scope to change the maps at a property scale, with suitably qualified assessment at a greater resolution but this does not amount to a relitigation of the maps. The RPS also provides for greater changes through the Schedule 1 process, providing this takes place using the methodology used to arrive at the natural character maps. No material evidence or assessment in this regard has been provided in the Trust's submission on the Proposed Plan why the overlay of outstanding natural character should be reduced or removed. The impact on private property rights does not have any bearing on the accuracy of the ONC maps</p>	

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
Maps	La Bonte A & R and Mangawhai Harbour Restoration Society Inc. request the deletion of the following five areas in Mangawhai Harbour as 'High Natural Character': 36/18, 36/25, 36/39, 36/40, 36/45,	<p>Both submitters have challenged the contributing values for each of these five areas. The areas were mapped by Vicky Froude in accordance with the criteria in Policy 13 of the New Zealand Coastal Policy Statement 2010. The approach taken is outlined fully in the Natural Character Mapping Methodology Report using the Quantitative Indices for measuring the Natural Character of the Coastal Environment (QINCCE) methodology. Taking each in turn:</p> <p>36/18 – natural character index of 0.55  36/25 – natural character index of 0.53  36/39 – natural character index of 0.50  36/40 – natural character index of 0.53  36/45 – natural character index of 0.56</p> <p>The cut-off for 'high natural character' is 0.44 therefore all of these areas have values and characteristics that aggregate to 0.50 or greater. I do not consider that the submitters have provided an expert assessment against NZCPS Policy 13 (refer Policy 4.5.4(2) RPS) using the QINCCE methodology or otherwise. Many of the factors identified which they suggest dispute the high natural character ranking were factors that were present when the original assessment was undertaken and were therefore taken into account.</p> <p>I also question the impact the high natural character ranking has had on the Society's activities. Taking into account the resource</p>	No change.

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		<p>consent that the Society have to undertake mangrove removal (received as a result of an Environment Court challenge) and a separate consent to dredge in the harbour, I have compared the extent of these resource consents with the mapping of natural character in the Proposed Plan. The dredging and deposition areas for the dredge spoil are outside of the area of high natural character in the lower harbour (36/18). The Society have however recently (2015) removed mangroves from 36/39 and Sand Island. The Environment Court case which granted consent to the mangrove removal concluded that the approved mangrove removal would be less than minor. Therefore, logically, if the Court found the mangrove removal would have a no more than minor effect then the impact on the value the high natural character unit would be 'no more than minor' and pass the policy test (avoid significant adverse effects).</p>	
Maps	<p>Haititaimarangai Marae 339 Trust request that all areas identified as high or outstanding natural character in the RPS are identified in the Proposed Plan to ensure that they are properly protected. This is to include all natural character mapped within the coastal environment, whether in the CMA, in freshwater or on land. I am uncertain as to whether the Trust want further mapping of</p>	<p>No natural character on land has been included. This is because protecting natural character on land is principally a matter for district plans (refer to RPS Method 4.6.3 (1 and 2)). However, I accept there is the need to consider the effects of use and development in water on adjacent land based values (be it natural character, outstanding landscapes, heritage or the like). As such, I am recommending a new policy to address this ((refer key issues –</p>	No change.

Natural Character			
Provision	Summary of main submission points	Discussion	Recommendation
	<p>natural character outside the coastal environment (and beyond what is already mapped in the RPS) to occur although this could be implied through a reading of their submission:</p> <p><i>(‘The Trust requests that all areas identified as High Natural Character or Outstanding Natural Character be identified in the Proposed Plan to ensure that the characteristics and qualities of these areas can be protected from inappropriate subdivision use and development, as required by the RMA’).</i></p>	<p>new objectives and policies to protect significant ecological areas, natural character, outstanding landscapes and features’).</p> <p>In terms of further mapping of natural character in rivers/streams and wetlands I refer to Council decisions for a similar request through consultation on the RPS. That is, while 6(a) requires natural character of freshwater bodies and their margins be protected there is no mandatory requirement to map this (there is no NZCPS equivalent). Protection can therefore be applied more generically via Proposed Plan rules such as: vegetation clearance, structures, bed disturbance and wetland rules and the like. The implementation of the National Policy Statement for Freshwater means the Proposed Plan identifies important elements of natural character in outstanding waterbodies and natural wetlands.</p>	
Maps	<p>Haititaimarangai Marae 339 Trust request that Lake Waimango and the surrounding wetlands be recognised as having high and outstanding natural character and that adverse effects on the lake are managed through objectives, policies, rules and other methods.</p>	<p>A large area of high natural character (unit 110/04) is mapped in the Proposed Plan overlaying Lake Waimongo. According to the description for unit 110/04, this is a shallow peat lake, primarily with open water with ruppia &amp; sedges. There are some patches of fringing rushes &amp; a low island dominated by rushes. The water table has recently risen following the owners filling in a previously cut channel (in the late</p>	<p>Include objectives and policies to manage effects on natural character. <i>(Refer key issues - request for new objectives and policies to protect natural character, outstanding natural landscapes, historic heritage, outstanding natural features and significant indigenous biodiversity)</i></p>

<b>Natural Character</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		1990's). The larger wetland environment was not mapped as having high natural character by Vicky Froude (with the exception of a small area to the west – unit 110/06). It is noted that rules around disturbance of wetlands in the Proposed Plan are fairly strict, a high level of natural character is implied and adding mapping of high natural character is of limited value. A number of rules (in C.2 of the Proposed Plan) afford protection to the beds of lakes and rivers. The area is also mapped as having outstanding natural landscape values (in the RPS and consequently the Far North District Plan) that afford a very high level of protection. I am also proposing new objectives and policies to manage adverse effects on natural character in the Proposed Plan.	
Maps	Aquaculture NZ and Parua Bay Oysters are requesting that there is a clear 30m buffer around marine farms in areas of high and outstanding natural character.	Council decisions resulting from the RPS mapping of natural character were to add a 30m buffer around authorised marina farm areas. Authorised marine farms are excluded from High/Outstanding Natural Character Areas. The 30m buffer recognises that their offsite impacts and that they are frequently located in a slightly different area to what has been licensed.	Amend maps to ensure there is a 30m buffer around marine farms in areas of high and outstanding natural character
Maps	Aquaculture NZ and Parua Bay Oysters request an amendment to the worksheet for the Outstanding Natural Character Area in Rangaunu Harbour that has oyster farms within it to recognise that the 'pacific oyster	I agree that for consistency the worksheet should be amended. The management approach to pacific oyster farms in Rangaunu Harbour is the same as that for Parengarenga Harbour.	Amend the worksheet and map for the Outstanding Natural Character Area in Rangaunu Harbour

Natural Character			
Provision	Summary of main submission points	Discussion	Recommendation
	farms are excluded' as per the worksheet for Parengarenga.		

Outstanding Natural Features			
Provision	Summary of main submission points	Discussion	Recommendation
Definition	<p>New Zealand Geothermal Association are requesting a definition of 'Geothermal Surface Feature' to be included in the Proposed Plan and provide the following wording:</p> <p><i><u>Means a surface manifestation of geothermal processes or discharges. It includes geothermal springs, steam-fed features, geothermal mineral deposits and landforms that are remnants of geothermal processes or discharges such as hydrothermal eruption craters'.</u></i></p>	<p>A number of geothermal features have been protected as outstanding natural features in the Proposed Plan.</p> <p>I understand that no new rules or policies are being included in the Proposed Plan to specifically manage effects on geothermal features. As such I question the utility of a definition and recommend that it not be included (unless provisions are subsequently included to manage effects on geothermal features).</p>	No change
New policy	<p>New Zealand Geothermal Association are requesting a new policy providing that activities should avoid effects on the characteristics of geothermal features that make it significant and if avoidance is not practicable, offset effects by enhancing/protecting other geothermal features.</p>	<p>The test prescribed in the RPS is that adverse effects are to be avoided and other effects avoided, remedied or mitigated on outstanding natural features outside within the coastal environment and significant adverse effects are to be avoided outside the coastal environment. The submitter proposes a lesser test by allowing offsetting as an alternative to avoiding adverse (or significant adverse) effects. This is inconsistent with the RPS. As few geothermal features are identified in the</p>	No change.

Outstanding Natural Features			
Provision	Summary of main submission points	Discussion	Recommendation
		<p>Proposed Plan (as outstanding natural features) I also the question the benefit of an offsetting approach.</p> <p>I am recommending that objectives and policies be included in the Proposed Plan that make the requirements of the RPS to avoid adverse/significant adverse effect clearer. <i>(Refer key issues - request for new objectives and policies to protect natural character, outstanding natural landscapes, historic heritage, outstanding natural features and significant indigenous biodiversity).</i></p>	
Maps	Whangarei District Council request that the mapping be amended so that no part of the Outstanding Natural Feature mapping at One Tree Point extend onto the beach or inter-tidal area.	<p>Presently the mapping extends into the intertidal zone. I understand that this forms a buffer zone between the feature itself and the intertidal area. Bruce Hayward, our geological expert, considered this buffer zone an essential part of the feature values. He was concerned that if the feature mapping does not extend slightly in front of the cliff then the features may not be seen if coastal protection works are built.</p> <p>The Tonkin and Taylor report states that the intertidal area has little of the actual feature and the significant observable features of the site are restricted to the exposures within the coastal cliffs.</p> <p>Including the intertidal zone as part of the feature is, in my opinion, problematic as this is inconsistent with the approach to</p>	Remove the outstanding natural feature from the Proposed Plan maps.

<b>Outstanding Natural Features</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		<p>other mapping of outstanding natural features (and significant values generally) where buffer zones have not been included. The ability to view the feature is important however I believe that effects on the feature from development in the intertidal zone would be considered through the resource consenting process without the need for a buffer zone. I am proposing a new policy to make clear the requirement to consider land based values for proposals in the CMA. (refer also to key issue – <i>request to map/acknowledge additional significant areas</i>)</p>	
Maps	<p>Malan D requests that Lake Manuwai is amended as an outstanding natural feature and provides detail in the body of his submission.</p>	<p>The feature description is a notable fluted basalt proto-karst which is viewable above the level of the lake (and extends into the lake itself). Because of the jurisdiction issue outlined in detail above, I am recommending this feature be deleted from the plan as it's protection does not relate to any S30 RMA function where rules can be developed. The changes proposed by the submitter in any case relate to the submitter's family land. This is on dry land and therefore out of scope of the Proposed Plan even before the jurisdiction issue was realised.</p>	<p>Delete the feature from the Proposed Plan as a consequence of the jurisdictional issue. (I have however passed the submission on to Far North District Council for consideration in their plan review process).</p>
Maps	<p>The New Zealand Geothermal Association are requesting the expansion of the mapped Ngawha ONF to include all geothermal springs (refer to Appendix 1 of their submission).</p>	<p>The map in the Proposed Plan corresponds to the Ngawha Springs hot pools however the submitter is suggesting that the extent of the feature is larger than that mapped (and provides a map from 2010 developed by SKM on the likely extent of the feature).</p>	<p>Include the full extent of the surface features proposed for mapping by Bruce Hayward at Ngawha Springs.</p>

Outstanding Natural Features			
Provision	Summary of main submission points	Discussion	Recommendation
		GIS shapefile maps of the feature, produced by Bruce Hayward, do indeed cover several additional geothermal lakes and surface features nearby (beyond just the Ngawha hot springs). It appears that they were inadvertently left out of the Proposed Plan maps and therefore I recommend that these should be included. I am unsure what status the SKM map has (whether it is widely accepted or not). As such I do not recommend the totality of the area proposed in this map is included in the Proposed Plan.	
Maps	The New Zealand Geothermal Association are requesting that features identified and mapped in Appendix 2 to their submission together with any others meeting the proposed definition of “geothermal surface feature” are considered significant, listed and mapped in an appendix to the Proposed Plan.	I have reviewed the map provided in Appendix 2 to the submission and compared this with Bruce Hayward’s assessment ( <i>Outstanding Natural Features – Identifying and Mapping additional sites in Northland, May 2016</i> ). From my analysis, 7 of the 22 sites in Northland have clearly been assessed by Bruce. Some have been deemed significant enough to be included in the Proposed Plan. Bruce has reviewed all sites in the NZ Geopreservation Inventory for significance (including these 7 sites). This was the starting point for an assessment as an outstanding natural feature (i.e. that it needed to have been accepted into the NZ Geopreservation Inventory). This means that the other 15 sites identified on the map in Appendix 2 of the submission have not been accepted (or not been nominated) into the Inventory. I would recommend that the submitter	No change.

<b>Outstanding Natural Features</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		approach the NZ Geopreservation Society with evidence of the existence of these features for cataloguing.	

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
New Policy	<p>Royal Forest and Bird Protection Society NZ request new maps/policies that:</p> <ul style="list-style-type: none"> <li>• Identify significant indigenous biodiversity in freshwater (through maps)</li> <li>• Protect significant indigenous biodiversity</li> <li>• Maintain significant indigenous biodiversity</li> </ul>	<p>The submitter has not provided any substantive reasons for why this mapping should be undertaken. While the RPS does provide guidance through Appendix 5 on significance criteria there is no direction to map this in any higher-level policy document. While we have not undertaken a thorough S32 analysis of the option our initial assessment was that the benefits of undertaking the mapping work would not justify the costs at this time, given other priorities. However, this is not to say that Council would not consider mapping these values in the future. We also note that an NPS Biodiversity is under development and is likely to be relevant to mapping. Appendix 5 criteria must still be considered at the resource consent level taking into account any local information and assessed on a case by case basis.</p> <p>For further discussion on the mapping of wetlands, please refer to the S42A wetland report.</p>	<p>Include objectives and policy wording in the regional plan that manage adverse effects on significant indigenous biodiversity. (Refer key issues - request for new objectives and policies to protect natural character, outstanding natural landscapes, outstanding natural features and significant indigenous biodiversity)</p>

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		<p>In terms of protection I am proposing new objectives and policy wording to manage adverse effects on significant indigenous biodiversity in the Proposed Plan.</p> <p>It is also important to note that proposed rules for wetland modification, river bed disturbance, structures etc... act to provide protection for indigenous biodiversity in freshwater whether it is specifically mapped or not.</p>	
New Policy	The Minister of Conservation request the addition of a new policy that seeks to prevent the establishment and avoids the spread of pest species that threaten indigenous biodiversity, including kauri dieback.	I note that the submitter has requested conditions on rules to manage the spread of kauri dieback from earthworks however these are outside the scope of regional council functions (refer to S42A report on land disturbance activities). I agree however that, in broader terms, the avoidance of the spread of pests is a relevant consideration for all aquatic environments (where the regional council has primary jurisdiction).	Include a new general policy on the avoidance of spreading pests into aquatic environments.
Policy D.2.7	Bay of Islands Planning Limited sought an amendment to clause 2 as follows: <i>'recognising damage, disturbance or loss to the following as being <u>potential</u> adverse effects, <u>subject to contextual evaluation in respect of item 3)</u> below.</i>	I agree with the submitter that the relationship between clause 2 and clause 3 need to be clearer. Clause 2 is quite absolute when it refers to effects but clause 3 refers to 'potential' effects. I therefore recommend including 'likely' in clause 2 also. I do not consider the other wording (i.e. <i>subject to contextual evaluation in respect of item 3)</i> ) is needed as there is a natural follow-through of clause 3 from clause 2.	Add 'likely' to effects in clause 2.
Policy D.2.7	CEP Services Matauwhi Limited are requesting an expansion to clause 1	I have recommended a rewording to clause 1 to make it clearer that areas of significant	Reword clause 1 to clarify that the policy is not only restricted to significant

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	of the policy to include all areas that meet significance stated in Appendix 5 of the RPS and amend the policy to ensure that it addresses all the matters given in the reasons for the submission.	indigenous biodiversity are not exclusively those mapped in the Proposed Plan but also include other areas that meet the RPS Appendix 5 significance criteria as assessed by a suitably qualified person.	indigenous biodiversity mapped in the Proposed Plan.
Policy D.2.7	Far North District Council requested that the policy is amended to require consideration of significant natural areas.	This is not precluded from consideration in the policy. The amended wording proposed to clause 1 will clarify this.	Reword clause 1 to clarify that the policy is not only restricted to significant indigenous biodiversity mapped in the Proposed Plan
Policy D.2.7	GBC Winstone requested changes to clause 2 to 5: Clause 2 <del>recognising managing damage, disturbance or loss of to the following as being adverse effects</del>  Clause 3 <del>b) recognising that discrete, localised or otherwise minor effects is not impacting on the ecological area may be acceptable</del> <del>c) recognising that activities with transitory effects may be acceptable where they can demonstrate the effects are not long term/ and or irreversible.</del>	I disagree with the proposed change as the point of clause 2 is to provide an overview of likely adverse effects. The management of these adverse effects is dealt with in clause 4. The addition of 'likely' to adverse effects, which I recommend, recognises that the list in clause 2 is not an 'absolute', but nevertheless likely to cause adverse effects.  I agree with the submitter that discrete, localised or otherwise effects 'not' affecting an ecological area need not be considered in this policy. The policy is meant to address these effects when impacting an ecological area, therefore I recommend deleting 'not' from clause 3)(2). I also agree that 3)(3) should be amended to remove reference to long term and irreversible effects as 'transitory' is generally understood to mean short term and reversible.	Amend D.2.7 as follows: <ul style="list-style-type: none"> <li>• Delete 'not' from clause 3(b) and 'where they can demonstrate the effects are not long term/ and or irreversible' from 3 (c).</li> <li>• Delete parts 6 and 7 from clause 4 and move to separate clauses.</li> <li>• Add 'significant residual effects' but retaining 'after consideration of the methods in clause (4).</li> </ul>

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p>Clause 4  <del>f) reversing previous damage or disturbance to areas of indigenous biodiversity, and</del>  <del>g) improving the public use, value or understanding to areas of indigenous biodiversity</del></p> <p>Clause 5  recognising that biodiversity offsetting and environmental compensation (as defined in the Regional Policy Statement for Northland) may be appropriate <u>to manage significant residual adverse effects after consideration of the methods in (4) above</u></p>	<p>I agree that reference to reversing previous damage and improving public use and understanding of a resource is more akin to environmental compensation than effects management. I am proposing new clauses that will address these separately.</p> <p>I agree in part to this however the policy should refer back to clause 4 of the policy. This recognises the hierarchy of effects management for indigenous biodiversity, that is avoid first then remedy, mitigate, then offset/compensate.</p>	
Policy D.2.7	Hicks M references the NZCPS Policy 26 that opportunities should be provided for the protection and restoration/enhancement of natural defences to protect (among other things) significant indigenous biodiversity.	I do not believe the submitter is seeking changes to this policy. The plan contains a Policy (D.6.1) which prioritises soft protection structures ahead of hard protection structures.	No change
Policy D.2.7	<p>Honeymoon Valley Landcare Group and Waldron S are requesting the addition of two clauses:</p> <ul style="list-style-type: none"> <li>• Protect kiwi by excluding carnivorous animals, and</li> <li>• Support reversion of marginal steep land to indigenous forest.</li> </ul>	<p>I consider that with respect to point one, this is best dealt under district plans (and particular subdivision consent where 'no cats or dogs' clauses can be attached as conditions of consent).</p> <p>In terms of point 2, this is again a matter for district plans. I am not aware of there being many impediments to this.</p>	No change.

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
Policy D.2.7	Landcorp Farming request clarity on the term 'connections' in clause 2 through criteria (area/distance) that is more explicit in its meaning.	In my opinion whether there is damage, disturbance or loss to 'connections' can only be determined on a case by case basis dependent on the size and sensitivity of neighbouring areas of indigenous biodiversity, the physical processes involved and the mobility of species.	No change
Policy D.2.7	<p>LaBonte A &amp; R and Mangawhai Harbour Restoration Society request:</p> <ul style="list-style-type: none"> <li>• The revision of Policy D.2.7</li> <li>• Deletion of subparts 2 and 3(1)</li> <li>• Add several other policies and objectives as required by the NZCPS and Part 2 RMA.</li> </ul>	<p>The submitter identifies a range of policies that D.2.7 does not give effect to. In assessing whether a plan gives effect to any particular higher provision the plan in its entirety should be looked at. Furthermore, the submitter has not demonstrated how this policy is in direct conflict with those higher policies referenced. It should be noted that the Proposed Plan does now include recommended additional objectives and policies, including a wider range of enabling objectives and policies, that might address these concerns.</p> <p>Directly addressing the point by the submitter that D.2.7 adopts language that is inconsistent with NZCPS Policy 11, the plan policy simply highlights how adverse effects might occur (Clause 2). This is not contradictory with NZCPS Policy 11a) and b) which acts to set an effects threshold. (Note: I have recommended adding 'likely' to 'adverse effects' in Clause 2 of D.2.7 as a result of requests from other submissions which reduces the 'absoluteness' of the policy). In addition, Clause 3 of D.2.7 is</p>	Include a clause in the policy positively recognising restoration and enhancement of the natural environment.

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
		<p>relatively enabling in that it recognises that effects limited to one area of an ecological system (such as mangrove removal) might well be acceptable.</p> <p>In terms of the submitters point that Policy D.2.7 should positively recognise activities that restore the natural environment, I agree this is a relevant consideration and recommend a clause by added to Policy D.2.7 to this effect.</p>	
Policy D.2.7	<p>Royal Forest and Bird Protection Society request:</p> <p>That the policy should recognise that the mapping undertaken in the Proposed Plan is not the full extent of indigenous biodiversity which might be identified using Appendix 5 RPS.</p> <p>That clause 3 requiring a system wide approach to the exclusion of particular smaller-scale impacts is not ecologically sound.</p> <p>The policy suggests that anything that is not long term and irreversible is transitory and thus acceptable. There is a big difference between transitory and irreversible effects and</p>	<p>Taking each in turn:</p> <p>The amended wording proposed to clause 1 will clarify that the mapping is not an exclusive representation of the application of Appendix 5.</p> <p>I do not consider that this approach precludes more localised effects. Localised effects may be acceptable under clause 3 but equally they may not be depending on the size and sensitivity of the ecological area.</p> <p>I am recommending that 3 (3) should be amended to remove reference to long term and irreversible effects.</p>	<p>Make the following changes:</p> <ul style="list-style-type: none"> <li>• Amend clause 1 to clarify that the mapping is not an exclusive representation of the application of Appendix 5.</li> <li>• Amend 3 (3) to remove reference to long term and irreversible effects.</li> </ul>

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p>anything more than transitory is unacceptable.</p> <p>The plan does not include a schedule of identified values for SEA. This information should be included in the Proposed Plan to guide consent decisions.</p> <p>The policy fails to provide direction consistent with Policy 4.4.1 and section 7 RMA and does not give effect to the NZCPS.</p> <p>There needs to be recognition of pest control as a form of avoiding, remedying or mitigating adverse effects.</p>	<p>Reports on the values for each area (as developed by Vince Kerr) are available on the mapping page of the Council website. Each area has a URL to where the relevant reports are located.</p> <p>It is important to note that policy direction in Policy 4.4.1 of the RPS and Policy 11 of the NZCPS still applies. Policy D.2.7 in the Proposed Plan serves to provide extra guidance and depth. In addition, the submitter did not supply any evidence how the policy does not give direction.</p> <p>This I believe is addressed through 4 (8) as pest control can fall under the ambit of ecological management and restoration plans.</p>	
Policy D.2.7	<p>The Minister of Conservation is requesting a number of changes:</p> <p>A change to the preamble to the wording of the policy to change the focus to 'protection'.</p> <p>A change to clause 1 of the policy deleting <del>recognising</del> and adding <u>avoiding adverse effects</u>, delete <del>'coastal marine area'</del>. Adding '<u>d) inanga spawning habitat</u>', e)</p>	<p>Taking each in turn:</p> <p>The policy does not just relate to significant indigenous biodiversity but other inigenous biodiversity where there is no requirement in S6 RMA to protect.</p> <p>I have recommended a rewording to clause 1 to make it clearer that areas of significant indigenous biodiversity are not exclusively those mapped in the Proposed Plan but also include other areas that meet the RPS</p>	<p>Make the following changes:</p> <ul style="list-style-type: none"> <li>• Amend clause 1 to clarify that the mapping is not an exclusive representation of the application of Appendix 5.</li> <li>• Provide a reference to the RPS glossary which outlines the principles of offsetting and compensation.</li> </ul>

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p><u>threatened and at-risk species habitat.</u></p> <p>Add 2) <u>recognising avoiding, remedying or mitigating damage, disturbance or loss to the following as being adverse effects.</u></p> <p>Amend 5) <u>Requiring biodiversity offsetting of any significant residual adverse effects on indigenous vegetation and biodiversity values (as defined in the Northland Regional Policy Statement) in accordance with the mitigation hierarchy, and where biodiversity offsetting is not appropriate or achievable, consider applying environmental compensation in accordance with its definition in the Northland Regional Policy Statement. recognising that biodiversity offsetting and</u></p>	<p>Appendix 5 significance criteria and assessed by a suitably qualified person. I note that the submitter has made a submission elsewhere requesting the mapping of inanga spawning sites and other at-risk species. Presently we do not have a detailed understanding of where these sites are (refer to response to Royal Forest and Bird submission above in relation to mapping of significant biodiversity in freshwater). As we haven't mapped these sites I do not recommend they specifically be identified in the policy.</p> <p>I do not agree with this proposed change as clause 2 is about recognising adverse effects from activities not the management of the adverse effects themselves (this being clause 4).</p> <p>The submitter requests an explicit requirement to offset significant residual adverse effects on biodiversity values. I agree that greater guidance and clarity over when offsetting and environmental compensation would be 'appropriate' is necessary and have suggested some wording to this effect. The RPS glossary provides further guidance by outlining the principles of offsetting and compensation and a reference to this in the Proposed Plan would be useful.</p>	

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	environmental compensation (as defined in the Regional Policy Statement for Northland) may be appropriate after consideration of the methods in (4) above.		
Policy D.2.7	Straterra supports the removal of the 'avoid adverse effects' policy on significant indigenous biodiversity that was in the draft regional plan.	Even without being included in the Proposed Plan the requirement to 'avoid adverse effects' still applies as decision makers have to have regard to policies in the RPS (such as policies 4.4.1 and 4.6.1) and NZCPS (Policies 13 and 15). However, I am recommending that objectives and policies be included in the Proposed Plan that make this requirement clear.	No change.
Policy D.2.7	<p>Top Energy request that Policy D.2.7 is amended as follows:</p> <p>Delete 'requiring resource consent' from the preamble of the policy.</p> <p>Amend clause 2 as follows – <del>recognising managing</del> damage, disturbance or loss <del>of to the following as being adverse effects</del></p> <p>Delete clause 3 (3) as transitory means short term, not permanent and therefore reference to long term/irreversible is not required.</p>	<p>Taking each in turn:</p> <p>I agree this should be deleted as it is not required for the purposes of this policy.</p> <p>The purpose of Clause 2 is to provide an overview of likely adverse effects. The management of these adverse effects is dealt with in clause 4. I have recommended adding 'likely' to 'adverse effects' in clause 2 to make it clear these are likely adverse effects.</p> <p>I am recommending that 3 (3) should be amended to remove reference to long term and irreversible effects.</p>	<p>Make the following changes:</p> <ul style="list-style-type: none"> <li>• Delete 'resource consent' from the preamble of the policy.</li> <li>• Add 'likely' to effects in clause 2.</li> <li>• Amend 3 c) to remove reference to long term and irreversible effects.</li> <li>• Delete parts f and g from clause 4 and move to separate clauses.</li> <li>• Add 'significant residual effects' but retaining 'after consideration of the methods in clause (4)'.</li> </ul>

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	<p>Delete Clause 4 (parts 6, 7 and 8) as these relate more to environmental compensation rather than avoiding, remedying or mitigating the effects of an activity.</p> <p>Amend clause 5 to recognise that offsetting and environmental compensation are usually used to address significant residual effects.</p>	<p>I agree that reference to reversing previous damage and improving public use and understanding of a resource is more akin to environmental compensation than effects management. I am proposing new clauses that will address these separately. In relation to the development of ecological management and restoration plans, I consider these should be considered as part of effects mitigation. (For example a management plan might be used to control the risk of pests from an activity).</p> <p>I agree in part to this however the policy should refer back to clause 4 of the policy. This recognises the hierarchy of effects management for indigenous biodiversity, that is avoid first then remedy, mitigate, then offset/compensate.</p>	
Policy D.2.7	Vision Kerikeri request an amendment to the policy to include pest control to the methods listed in clause 4.	This is addressed through 4 (8) as pest control can fall under the ambit of ecological management and restoration plans.	No change.
Policy D.2.7	Whangarei District Council believe that the rules of the plan do not give effect to this policy. The policy only covers the coastal marine area and should apply to all indigenous biodiversity.	I have recommended a rewording to clause 1 to make it clearer that areas of significant indigenous biodiversity are not exclusively those mapped in the Proposed Plan but also include other areas that meet the RPS Appendix 5 significance criteria when assessed by a suitably qualified person. The submitter has not provided any evidence on how the plan is deficient in terms of rules not giving effect to this policy.	Amend clause 1 to clarify that the mapping is not an exclusive representation of the application of Appendix 5.
Policy D.2.8	Submitters requests ranged from:	In response to requests for greater certainty	Amend as recommended.

<b>Significant Indigenous Biodiversity</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
Precautionary approach to managing effects on significant indigenous biodiversity	<p>a) Amendment to ensure that the greatest weight is on protection of significant indigenous biodiversity (Royal Forest and Bird Protection Society NZ).</p> <p>b) Include reference to areas that meet criteria for 'significance' stated in Appendix 5 of the Regional Policy Statement (CEP Services Matauwahi Limited) and Significant Natural Areas (Far North District Council and Kaipara District Council), similarly New Zealand Transport Agency request clarification on what "the values ranked high means.</p> <p>c) Including an allowance for adaptive management method to sufficiently diminish risk and uncertainty (Parua Bay Oysters), or similarly replace 'precautionary' approach, with 'adaptive management' Mangawhai Harbour Restoration Society Inc.).</p> <p>d) Delete the final sentence that requires 'effects reasonably predicted by science, must be given the most weight' (Refining New Zealand).</p> <p>e) Delete the whole policy (GBC Winstone, LaBonte' A &amp; R, Top Energy, Mangawhai Harbour Restoration Society Inc.)</p>	<p>over the protection of significant values [points a) and b)] I recommend inserting into part 2) of the policy, reference to areas meeting the Regional Policy Statement Appendix 5 criteria. This goes some way to meeting the district council requests for inclusion of significant natural areas i.e. areas they have identified that meet Appendix 5 criteria.</p> <p>I do not consider replacing 'precautionary' with 'adaptive management' approach as a realistic option, as the latter is more a potential tool to help deliver an outcome that meets the policy, rather than the outcome itself.</p> <p>I do not support the requests to delete all or part of this policy, as I consider the policy provides necessary balance to ensure that significant values are protected, while enabling activities in areas with significant values.</p>	

<b>Significant surf breaks</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
D.5.26 – Significant surf breaks	The Surfbreak Protection Society is seeking that clause 1 of Policy D.5.26 is deleted:	Policy D.5.26 includes direction for applications to provide information on effects on Significant Surf Breaks within 1km of a Significant Surf Break and also sets the level of effect that is tolerable. The reason behind the submission point appears to be an assumption that information on the effects on surf breaks is not required if the activity is taking place more than 1km away for a significant surf break. This assumption is not consistent with my reading of the policy. As I read it, information on effects on significant surf breaks is mandatory within if the activity is within 1km. Outside that distance the general principles and practices for assessing environmental effects applies. If the submitters interpretation of the policy is a common interpretation. Then the policy should be amended to be clearer. At this time I don't have any information that suggests this is the case.	No change.
D.5.26 – Significant surf breaks	Mangawhai Waka Ama are seeking amendments to make any development that may result in a change to a naturally occurring surf break to be prohibited.	On the face of it this would appear to be overly restrictive. The submitter has not provided any evidence to support their submission or to convince me that the change is warranted.	No change.
D.5.26 – Significant surf breaks	McConchie A supports maintaining of access to all recognised surf breaks. It is assumed that the submitted is seeking amendments to Policies D.5.26 and D.5.27 to ensure that improved access is accomplished.	The submitter has not provided any evidence at the time of writing this report that convinces me that amendments are required to the surf break policies. Council could promote access to surf breaks through education however this is outside the scope of this plan. In respect to	No change.

<b>Significant surf breaks</b>			
<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
	through education direction not necessarily roading and amenities.	the points around roading and amenities. Management of those assets is a function of district councils and is outside the scope of this plan.	
D.5.27 – Managing effects on surf breaks	Surfbreak Protection Society are seeking the following change to the title of Policy D.5.27: <i>D.5.27 <del>Managing</del> <u>protect</u> effects on surf breaks</i>	The policy directs people to <i>have regard</i> to certain things when preparing or processing a resource consent. The proposed title does not accurately reflect the content of the policy.	No change.

## Appendix B - Outstanding Natural Features to be retained and deleted outside of the Coastal Marine Area.

Feature type	Retain/Delete
<b>Waterfalls</b>	
Haruru	Recommend these be <b>retained</b> as the presence of water is a fundamental quality that make waterfalls outstanding natural features.
Paranui	
Piroa	
Rainbow	
Wairua	
Whangarei	
Wharepoke	
<b>Soda Springs</b>	
Moku Stream soda spring and travertine	Both these should be <b>retained</b> as spring water feeds the development of the spring/travertine feature.
Te Wairoa Stream soda spring and travertine	
<b>Dune Lakes</b>	
Pouto	Water is a fundamental quality of all these lakes and these should all be <b>retained</b> . Northland's dune lakes are a unique and rare geological oddity.
Kai Iwi	
Waipoua	
Sweetwater	
Ruakaka	
<b>Volcanic Lakes</b>	
Tauanui cone and dammed lake	As above, water is a fundamental quality of all these lakes and these should all be <b>retained</b> . The lakes were formed by volcanic process (i.e. lava flows) that trapped water behind them to form lakes.
Omapere	
Pouerua scoria cone and lava fields	
Ora	
<b>Fossils</b>	
Pinehill stream fossil molluscs	Water does not appear to be an important contributor to these features although they may have been uncovered through water action. Recommend <b>deletion</b> .
Lake Ohia fossil forest	
Taita stream fossils	

<b>Rock formations/exposures</b>	
Waihou Valley limestone bluffs and mid tertiary sequence	As above, water does not appear to be an important contributor to these features although they may have been uncovered through water action. Recommend <b>deletion</b> .
Whakateterekia allochthon block	
Whakateterekia stream Eocene sediments	
Lake Manuwai basalt proto-karst	
Pungaere natural bridge	
Waipapa River outlier of Waitemata sediments	
Waimamaku River Miocene sedimentary sequence	
Waikiekie karst	

# Appendix C - Marine Significant Ecological Areas submission responses

## Marine Significant Ecological Areas, response submission and recommendations

April 2018

Kerr & Associates

For: Northland Regional Council

Report by: V.C. Kerr B.Sc., Kerr and Associates, Whangarei

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## **Introduction and Client Brief**

Kerr and Associates has been asked to review a subset of submissions on the draft SEA's and supply a reasoned response to the submissions in the form of edits to the SEA information layers where warranted.

This report outlines our response to each of the submissions, which is followed by a recommendation of what Council, should do regarding these submissions. There are notes describing any recommended changes to the SEA layer shapefiles and worksheets.

We have also been asked to comment on possible ways the SEA scoring and classification of the mangrove areas within the SEA's could be evaluated in the context of developing policy and rules around manipulation, removal or disturbance activities in these areas. We have attempted to provide a framework for consideration around this task based on explanation of some of the detail on how the SEA scoring of the mangrove areas was done and what the results mean in ecological terms in the context of the catchments and estuaries they are part of.

## **Te Hui Amorangi Ki Te Tokerau Trust Board**

The Trust Board is seeking removal of the SEA designation for the area mapped at Te Haumi Estuary.

### **Recommendation:**

The Trust Board submits that the designation of the SEA is not well supported by ecological information and was done without consultation with the surrounding landowners. Further they state their opinion that the designation will impinge on their future development options and property rights.

We would like to refer to the Assessment sheet for this estuary that states the case for this SEA according to the criteria established for the SEA project. On review, there is nothing we would change in this assessment based on the values of this small but relatively intact estuarine system.

In considering the relief sought it must be understood that the reason for the program of SEA mapping is to bring together best possible ecological information to guide and inform all processes

carried out under the RMA and Regional Council Plans. The SEA areas attempt to capture this known ecological value in a spatial format to assist in planning processes.

We would like to point out that the Trust Board states in their submission that in considering future developments they “*wish to sustain the potential of the natural resource and life supporting capacity of ecosystems and preserves the outstanding character, within the Te Hauami estuary.*” This is an admirable aim and signals that future development could very well not conflict with the designation of it being a SEA. In any case how any future development would proceed would be the decided by the various processes involved with the details of the Coastal Plan and the consent process and judged accordingly on its merits. The intent of the SEA information system is to inform these processes and functions not to prescribe what can and cannot be done.

We recommend that the relief sought is not upheld and that the SEA remains as currently presented.

## **LaBonte' A & R, and Mangawhai Restoration Society**

The Labonte and Mangawhai Restoration Society submissions call for three changes to be made to the SEA layers for the Mangawhai Estuary. The requests for relief and arguments offered are similar so have been responded to here together:

- (A) Amend the Significant Bird Areas map as set out in Figure 8 (page 22) of the Labonte' submission.
- (B) Limit the designation of Significant Ecological Areas in the Mangawhai Estuary to areas of the channel that contain significant shellfish (See area C and part of B in Schedule 5 of the submitters)
- (C) Remove the incorrect designation of various areas in Mangawhai as a 'Marine Mammal and Seabird Area', as set out in Figure 8 (page 22) of the submission – for example, in the Upper Harbour areas landward of the two main causeways.

## **Recommendation:**

- (A) Our recommendation is that the 'Bird' SEA is left unchanged and that the description of assessment provided is valid. We don't support the submitters' assertion there is no significant bird life in this area including the areas inland of the causeway. We refer to the bird assessment sheets that document the basis for our conclusion.
- (B) Our recommendation is that the marine SEA remains unchanged. While we accept the point made by the submitters that shellfish populations can be changeable and indeed that

movable sand habitats can change their configuration over time. In the process of identifying the SEA areas based on significance of shellfish and accompanying benthic community and their importance to avian and other marine species we had to work on best possible evidence of the values under consideration. Our best assessment is at variance with what is presented by the submitters. We determined that the most comprehensive description of shellfish values for the estuary is made by the NIWA shellfish study project<sup>16</sup> that has run since 1999 and was most recently surveyed in 2010 and 2011. These surveys showed presence of cockles and pipies in the habitats mapped as SEA's currently with cockles being the most prevalent species. We don't agree with the submitter's summary of the various forms of evidence that the cockle beds of these habitats are insignificant. As to the pipi beds in the channels, given the considerable changes and modification that the channels have been subjected we did not think that they could be reliably mapped based on the limited amount of historical data, most detailed of which dates back to 2003. As for the submitters' points about the SEA being in conflict with the dredging activity, this as in the initial consent process would be determined by merits of the case presented relating to adverse impacts and the terms of the existing consent or any future consent. Indeed, the documentation supporting the dredging activity argues that there are no more than temporary and minor impacts on shellfish and shellfish habitats and thus is not necessarily affected or prohibited by the designation of these habitats as SEA.

- (C) We recommend no change to the Marine Mammal and Seabird Area layers as presently mapped. We appreciate the points made by the submitters that there are areas in the upper estuary (above the causeways that could not possibly be used by marine mammals) and that these areas would be not be used by a very large number of 'seabirds'. However, we point out that there is some use and the point of this information layer is to document the highly dispersed nature of and ecological significance of these two groups of marine species. Dolphins commonly feed in channels extending into mangrove areas. For several avian species, these channels and mangrove edges are also important feeding areas, notably the tern species for example. While the submitters may argue that these uses are very infrequent and therefore insignificant this misses the point of this information layer which attempts to inform the coastal planning process of the range and importance of these species. To achieve this goal with limited resources and limited spatial data of actual use by the species involved, the current approach of mapping the two layers has been adopted to illustrate the important and the wide spread nature of the values of these pelagic species.

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<sup>16</sup> Berkenbusch, K.; Abraham, E.; Neubauer, P., 2015. Intertidal shellfish monitoring in the northern North Island region, 2013–14. New Zealand Fisheries Assessment Report 2015/15. 79 p

### **Mapping change:**

Given the resources available to further refine the spatial extent of areas used by all the species involved it is suggested that the current seabird and marine mammal layers is a useful way to confer a first layer of descriptive information, that said the request of the submitters to further define spatial use patterns, especially in the case of estuaries is a valid request for future consideration. Likewise, if there were detailed surveys completed of shellfish habitats this new information could also be reviewed in the context of a long-term view of the ecological significance of these habitats and the estuary itself relating to the SEA criteria.

### **Marsden Maritime Holdings**

Marsden Maritime Holdings in their submission has requested that the Significant Ecological Area mapped at One Tree Point is modified to not cross between the Marsden Cove entry channel and the main shipping channel.

### **Recommendation:**

We accept that is logical and desirable for the channel from Marsden Cove to connect with the main shipping channel and be omitted from the SEA. Marsden Maritime Holdings submits that there will be a negligible adverse effect on the SEA. We agree with this statement.

### **Mapping Change:**

We recommend the SEA is modified to extend the current gap of the Marsden Cove Marine channel out to the main shipping channel as requested in the submission.

### **Northport Ltd**

Northport Ltd is requesting to amend the extent of the Significant Ecological Area to the immediate west of Northport's current reclamation (as shown on plan attached to submission).

## Recommendation:

This request to amend the SEA is made in parallel with their request to create a new Commercial Port Zone. The request is supported by argument that this change will support development of regionally important facilities. Also, it is suggested by Port Corp that the requested change to the SEA will have very little impact on the ecological integrity of the SEA and local ecological communities.

It is beyond the scope of this report to comment on the merit of the argument to support Regionally important infrastructure but we can comment on the ecological aspects of this change to the SEA. In regards the case made in this submission that the change requested would not be significant to the SEA, no survey data or factual evidence is provided. Historically the intertidal area of the One Tree Point (Marsden Bay) supported cockle beds and sporadically small beds of seagrass. The shallow subtidal zone supported scallops. It is not known to what extent this small reduction in the SEA area proposed would impact on the overall cockle population of this SEA. The seagrass beds on this part of the shore are quite localized, small and more concentrated to the west of the proposed change area, however over recent years these seagrass beds have been changing their shape size and distribution (V. Kerr pers observation, Feb 2018). It is unknown how small changes to the size of the SEA in this area would affect the overall ecological integrity of the SEA. It is worth noting that this habitat area has already been reduced from its original size and configuration by previous Port development. Unfortunately, we cannot be more specific in our comments on the ecological impacts of this change to the SEA without carrying out a field survey of the communities affected. We can acknowledge that the area affected by the change is not large in relation to the total harbor habitats and this SEA, however this does not automatically mean that the change proposed would result in only minor impacts. Our recommendation is that SEA is not changed unless an evidence based case can be put forward.



Figure 1 Marsden Bay, area in question is intertidal flat and subtidal areas direct adjoining the current reclamation. (see submission for proposed boundary design)

## Patuharakeke Te Iwi Trust

Amend the SEA overlay at Ruakaka Estuary to follow the original MM1 boundary as per the current Regional Coastal Plan maps and to align with the natural character mapping in the RPS.

### Recommendation:

The submission from the Patuharakeke Te Iwi Trust has presented a further perspective on the evaluation of the SEA for this estuary. The submission has called for this small estuary to be treated holistically in terms of mapping its ecological values. Patuharakeke are the Tangata Whenua/Moana of this area, estuary and adjoining coastal area. They are active as kaitiaki in this area and have a substantial record of involvement in Resource Management work and have skilled leaders in this work. They have also argued that they consider dividing the description of the values into parts of the estuary as we have done in our draft mapping would make management of the estuary more difficult. They have identified a range of ecological values spread throughout the estuarine which underpin their designation of the entire estuary as a Mahinga Kai area. While this

term is a traditional descriptive term, it is nonetheless significant as it informs the spatial mapping and ecological ranking and description. These areas traditionally are the most valuable and precious resources of the rohe. Habitats that surround, support and protect them are equally held in high esteem and protected, thus Patuharakeke's request to amend the SEA.

In considering this request we went back to the scoring assessment and supporting information and had another look at the scoring. This also followed a field visit I completed in Feb 2017 that was after the initial assessment. In that field trip, I observed that the values of lower reaches and sand flats of the estuary were higher and more widespread than I expected and in addition connections to small salt marsh areas and mangroves and thin bands of riparian protection were more effective than I judged in my initial assessment. Taking all these things into account and the input from Patuharakeke I am recommending that we amend the SEA as requested. In doing this we have reconsidered our own scoring of SEA criteria and are supporting the Kaitiaki role and use of the traditional knowledge base of Patuharakeke.

### **Mapping change:**

The SEA scoring worksheet has been redone for this SEA and it is recommended that a new SEA mapping layer for Ruakaka estuary be created which includes the entire estuary. A map of the SEA has been included in the revised worksheet.

### **Refining NZ**

Refining NZ has requested changes to the operational layers depicting marine mammal and seabird values and in addition the removal of the SEA designation covering Mair Bank at the entrance to the Whangarei Harbor. Summaries of this submission appear below:

- (A) The proposed Regional Plan for Northland identifies a 201-hectare significant ecological area over Mair and Marsden Banks. The key ecological value present in this area is pipi, despite the dramatic reduction in the pipi biomass within this area in recent years. The submission reports that technical reports commissioned by Refining NZ ('the Company' for its proposed Crude Shipping Project ('CSP')), in particular the ecological assessment undertaken by Dr Brian Coffey, have identified that Mair Bank and Marsden Bank no longer contain ecological values that warrant their inclusion within the Significant Ecological Area overlay. A copy of this report is attached as Annexure B to this submission. The Company acknowledges that this area continues to have avifauna and natural character values.

Relief Sought:

Remove the Mair Bank Significant Ecological Area from the planning maps associated with the proposed Regional Plan for Northland ('the pRP').

(B) The pRP identifies an exceptionally large Significant Marine Mammal and Seabird Area overlay that appears to apply to all the coastal marine area that is administered by the Northland Regional Council. The marine mammal ecological assessment undertaken by Dr Clement as part of the Company's CSP concluded that the neither Bream Bay nor the Whangarei Harbour are considered to be significant habitats for marine mammals. A copy of Dr Clement's report is attached as Annexure C to this submission. Further to this, the Company notes that the overlay groups both Seabirds and Marine Mammals together. It is suggested that this approach appears inappropriate, given the two values are completely unrelated and that the pNRP already contains a Significant Bird Area Overlay. A more appropriate approach is, in the Company's opinion, to individually map Marine Mammal Areas and Seabird Areas, based on evidence of the significance of the identified areas. The Company further notes that an assessment of significant habitat for birds was undertaken by Mr Don, also as part of the Company's CSP, and concludes that Bream Bay and the Whangarei Harbour entrance is not significant. A copy of Mr Don's report is attached as Annexure D to this submission.

Relief Sought:

Remove the Significant Marine Mammal and Seabird Area overlay from the Whangarei Harbour and Bream Bay in the planning maps that are associated with the pRP.

### **Recommendation:**

(A) Removal of Mair Bank SEA: We do not support the rationale presented by Refinery Company. In the first instance, we would like to point out that the information presented in the Coffey report cited is taken out of context. This report was produced in the context of assessing potential impacts of nearby channel dredging activity. The Coffey report is based on NIWA survey work which has shown that there has been dramatic decline of pipi population in a ten-year timeframe but there remains a small population which could recover. Also, it must be considered how significant Mair Bank is a shellfish habitat and potentially how important this community is to the greater ecology of the harbor and possibly stability of the bank itself and configuration of channels. Historically the extent of the shellfish populations there is very large, one of the most significant in the country. Relating to the current decline of pipi, after considerable effort by the NIWA team the cause of the recent decline is not understood. Given this situation, there is no real basis for assuming that there will not be recovery of this shellfish community over time. Collapse and recovery of shellfish communities happens and has been documented previously. Relevant to the consideration here is the importance of the bank to other shellfish species. Currently there is a significant population of cockles on the bank that are being harvested recreationally and there is evidence of green lipped mussels colonizing several areas on the bank. Anecdotal evidence and shell remnants at Mair Bank support the idea that at various

times in its past Mair Bank have had substantial mussel beds. It is not well understood why these shellfish populations come and go over decadal time frames on the bank but there is evidence that this does in fact occur.

- (B) We recommend no change to the Marine Mammal and Seabird Area layers as presently mapped. Firstly, we would like to point out that the information for seabird values and marine mammal values were not assessed together in a combined process, in fact they are the result of two separate processes. This first version of the information layers has resulted in the same spatial layer for marine mammals and seabirds. So, there are two layers not one. Secondly, we respectfully suggest that the argument presented in the submission that the evidence presented by Dr Clement in the documents supporting the current channel dredging proposal have been taken out of context in respect of the submission. In her report Dr Clement in fact re-enforces the presence of a number of marine mammal species at various times in the area of question. Also, Dr Clement's in report there is considerable information presented on how to avoid any disturbance to these species associated with the proposed dredging activities. There are other information sources as well that speak to the significance of this area for some of the marine mammal species, notably Orca and dolphin species. The same situation we suggest arises with the evidence relating to seabirds in relation to relief sought by the RFC submission. The submission interprets the seabird report by Mr Don quoted as concluding there are no significant seabird values in the area in question whereas in the report itself several important species were observed and documented in the area. While the submitters may argue that these uses are very infrequent and therefore insignificant this misses the point of this information layer which attempts to inform the coastal planning process of the range and importance of these species. To achieve this goal with limited resources and limited spatial data the current approach of mapping the two layers has been adopted to illustrate the importance and the wide spread nature of the values of these pelagic species.

## **Royal Forest and Bird Protection Society NZ**

The Royal Forest and Bird Protection Society has submitted the following submission on the Significant Ecological Areas information layers.

- A) SEA/SBAs should include bird-breeding areas, including those associated with inland water bodies. Need a schedule or similar setting out the values for each area.
- B) Add the IBA areas to the Significant Bird Areas. Distinguish these areas within significant ecological areas on the maps. Identify Significant Marine Mammal and Seabird Areas on the maps

## Recommendation:

- A) Where bird, (shorebird and seabird) breeding areas were known they were considered and noted in scoring and mapping of the bird layer. Since this layer was not intended to map terrestrial ecological zones the actual known breeding areas were not marked or including in these layers. We acknowledge the point of the submission that there is a crucially important connection between breeding areas on the mainland coast and on islands and the bird populations themselves. We suggest this could be resolved by creating a special layer that does detail all known breeding sites of significant shorebird and seabird species. This layer could then be used in conjunction with the marine based layers, as I believe the submission is calling for. The issue raised by the Society around ‘inland’ bird breeding areas could also be addressed in the same manner.
- B) The current status of the significant marine mammal and the seabird layers indicating there are values essentially in the entire CMA has resulted from our consideration of the detail of the information of the various species involved in the two layers and the nature of these species which is characterised by extremely wide-ranging behaviors. Evidence does show that there are a number of species in both groups which essential use virtually all of the CMA at least to some degree. To further complicate this problem of excluding areas that are not significant we believe presence and use data available is collected largely on an opportunistic basis, i.e. sightings are collected when and where people are able to record sightings. A comparison between marine mammal data of sighting between east and west coasts illustrates this point. At a glance, one could conclude that there are less marine mammals present off the west coast than the east but, this is unlikely. The difference in the data is much more likely to be a function of the number of sightings and spatial distribution of the observations which clearly varies from area to area in Northland. We recommend that future work could attempt to rank areas in terms of significance and categories of importance and with more spatial definition. This would be desirable and perhaps very useful; however, this approach would not necessarily lead to a conclusion that there are parts of Northland’s CMA that are not used by these species or not important. As to the mapped IBA marine areas mentioned in the submission, we acknowledge the value of this work. This approach indeed begins a process of further refining the spatial definition of ecological significance. However, the marine IBA areas mainly identified represent detailed work for only the outer Hauraki Gulf and do not add much information on these values in the other areas of the Northland CMA. While this information was noted in our work for consistency reasons it was not integrated as specific spatial layers at this time.

Westpac Mussels have lodged a submission opposing the inclusion of Houhora and Stephenson Island. They are also opposing the bird areas and significant marine mammal and seabird operational areas for these two locations.

### **Recommendation:**

We do not recommend accepting the changes requested by Westpac Mussels in their submission.

We do not support the assertions in the submission that say that values at these two sites do not warrant designations as significant ecological areas. Both sites have a wide variety of significant species and communities present, (please refer to worksheets).

Westpac Mussels also asserted in their submission that the presence of the SEA and the three operational layers bird, marine mammals and seabird layers would unduly restrict future development. These layers have been developed to provide ecological information to guide the various processes carried out under the RMA and Regional Plan. The Section 42A hearing report on Aquaculture makes recommendations on the activity status in the SEA's.

## **Considerations around the management and ranking of mangrove areas within the SEA information layers.**

We have been asked by Council planning staff to comment on the issues around management options of mangrove areas in and outside of mapped estuarine significant ecological areas.

The first point we would like to make is that questions around management of mangroves played no part in the development of the ranking criteria stemming for the NZCPS and the actual exercise of the ranking that was undertaken. These processes were entirely focused on ecological values, function, processes and conservation values such as rarity, diversity and threatened species rankings.

When considering how and where to manage mangroves if indeed this is an option, it may be useful to focus on how various areas or estuaries in Northland either scored or didn't score high rankings and also the relationship spatially with identified and adjoining terrestrial classifications such as natural character. To aid this understanding we will discuss some aspects of the estuarine SEA ranking process as it related to mangrove forests as part of the estuarine system. It is important to keep in mind that the SEA criteria states that **if any** of the ranking criteria are classified as having high value then the area is deemed to be an SEA. Table 1 shows the criteria used for this process. The process suggests and demonstrates that ecological value can have many facets. Estuaries can be very different in their makeup and values and still end up with a high ranking. Estuaries can be very large or small, large catchments, small catchments having small tidal prisms, large tidal prisms, all these examples exist in Northland.

For each estuary, the ecological significance and value of the mangrove area was assessed alongside the marine values of the species present and habitats/communities that are of high ecological value such as seagrass and shellfish beds and tidal flats for example. We first looked at the basic characteristics of the mangrove component; large areas, small, includes a range of age classes and mature stands of mangrove and degree of modification. We then typically looked at two criteria and four sub criteria where mangroves play significant ecological roles:

### **Diversity and Pattern**

- 1) its composition reflects the existence of diverse natural features or ecological gradients
- 2) contains intact ecological sequences

### **Ecological Context**

- 3) provides or contributes to ecological linkages, networks, buffering functions
- 4) supports the natural functioning of freshwater or coastal ecosystems

In assessing these ecological function and connectivity criteria we assessed the mangroves as part of sequence of habitats that extended from the estuarine habitats to salt marsh and then also

connectivity with the riparian areas in native forest, scrub. We looked for connectivity with wetlands, their extent and value and finally the river or stream and catchment quality based on riparian protection and the percentage of the catchment which was in tree cover. Part of this assessment was also a check on the pRPS natural character and outstanding landscape ranking and assessment information. In some but not all cases there was good agreement on where high values were attributed. We also considered as part of the catchment and riparian condition, the degree to which there were active conservation groups and landowners working on stream, wetland, and catchment restoration generally as demonstration that the values being assessed were currently increasing or being restored. Examples of these trigger values in each of the estuaries are often highlighted on the SEA assessment worksheets.

Given the process described above we would suggest that where mangrove forests are situated in an estuarine SEA it can be taken that these mangrove forests have significant values as described by the SEA criteria.

It is worth noting that there are some mangrove forests that received a medium SEA ranking. The middle and upper Hokianga is a case in point. In these areas, the overall estuary ranking failed to reach a high ranking and in most cases (arms of the harbour) there were medium ranking scores. In this case however many of the mangrove forests in the Hokianga are significant in terms of their ages, size and having stands of mature mangroves and in some cases, are connected to significant salt marsh areas.

The areas of mangroves which have not been ranked high or medium are low ranking essentially because they did not score highly in the various criteria discussed above. In most cases these areas are smaller in extent and are part of estuarine systems that have poor catchment characteristics and may be in a degraded state due to accelerated rates of erosion in the catchments and sedimentation of fine silts and clay. In relation to the management question surrounding mangroves, we suggest that these areas still have values that are important.

<b>Representation</b>	supports most taxa expected for habitat type
	large example of its type
<b>Rarity and Distinctiveness</b>	supports indigenous species threatened, at risk, or uncommon, nationally or within the relevant ecological scale
	supports species endemic to the Northland-Auckland region or at distributional limits within the Northland region
	distinctive of a naturally restricted occurrence
	developed as a result of unusual environmental factor(s) or is part of an ecological unit that occurs within an originally rare ecosystem
	identified as nationally or regionally rare habitat(s) in MPA Plan
<b>Diversity and Pattern</b>	high diversity of indigenous ecosystem or habitat types
	high diversity of indigenous taxa
	its composition reflects the existence of diverse natural features or ecological gradients
	contains intact ecological sequences
<b>Ecological Context</b>	provides or contributes to ecological linkages, networks, buffering functions
	supports the natural functioning of freshwater or coastal ecosystems
	supports life stages of indigenous fauna

Table 1 –An example of an estuarine SEA scoring worksheet

