

Wetlands, beds of lakes and rivers, and damming and diverting water

**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 wetlands, beds of lakes and rivers and damming and diverting water provisions in the Proposed Regional Plan for Northland (the Proposed 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 our opinions and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. Our recommendations may change as a result of presentations and evidence provided to the hearing panel. It is expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. Our recommendations focus on changes to the Proposed 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. Most of matters raised in submissions focussed on specific issues with the provisions for activities in the beds of lakes and rivers and wetlands and damming and diversion. These matters are addressed in the “Other matters” section.
7. This report identifies two key matters, these relate to wetlands:
 - Definitions of different types of wetlands
 - The mapping of significant wetlands and their inclusion in the Proposed Plan
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 6 – *Wetlands, and beds of lakes and rivers* in the Section 32 report.

Report authors

Author 1 – James Griffin

11. My name is James Griffin and I have overall responsibility for this report and am responsible for the recommendations of all provisions covered with the exception of those covered by Michael Day below). I have worked as a Policy Analyst for Northland Regional Council (regional council) since 2012. For further details about my qualifications and experience, refer to the s42 report: *General approach and procedural issues*.

Author 2 – Michael Day

12. My name is Michael Day and I have responsibility for provisions (rules and policies) relating to flood defence and bank protection structures, gravel extraction and maintenance of the free flow of water in rivers. I am the Resource Management Manager for Northland Regional Council (regional council) and have been employed by the regional council since 2008. For further details about my qualifications and experience, refer to the s42 report: *General approach*.
13. The following council staff and consultants have assisted us with the preparation of this report:
 - Stuart Savill, Consents Manager, Northland Regional Council
 - Geoff Heaps, Consents Officer, Northland Regional Council
14. 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 wetlands and beds of lakes and rivers provisions

15. The relevant provisions in the Proposed Regional Plan for Wetlands, beds of lakes and rivers and damming and diverting water addressed in this report are:

Definitions		
<ul style="list-style-type: none"> • Artificial watercourse • Wetland • Appendix H.8 Wetland definitions relationships 	<ul style="list-style-type: none"> • Constructed wetland • Induced wetland • Natural wetland • Reverted wetland • Significant wetland 	<ul style="list-style-type: none"> • Dam • Off-stream • Wetland enhancement
Rules		
<ul style="list-style-type: none"> • C.2.1 Activities in the beds of lakes and rivers – all rules • C.2.2 Activities affecting wetlands – all rules • C.3 Damming and diverting water – all rules • C.2.3 General conditions – all conditions 		
Policies		
<ul style="list-style-type: none"> • D.4.27 Wetlands – requirements • D.4.28 Wetland – values • D.4.29 Freshwater fish • D.4.30 Benefits of freshwater structures, dams and diversions • D.6.4 Flood hazard management – flood defences • D.6.5 Flood hazard management – development within floodplains 		
Appendix H.8 (new)		
<ul style="list-style-type: none"> • Wetland definitions relationships (new diagram incorporating all wetland definitions) 		

16. Royal Forest and Bird Protection Society NZ request new maps/policies that:
- identify significant indigenous biodiversity in freshwater (through maps),
 - protect significant indigenous biodiversity,
 - maintain significant indigenous biodiversity, and
 - then request rules relating to these areas.

This is addressed in the S42A report: *Significant natural and historic heritage*, in Appendix A - *Response to other matters raised in submissions, Significant Indigenous Biodiversity*.

17. All requests from Heritage NZ with regards to managing Historic Heritage Sites are addressed in the S42A report: *Significant natural and historic heritage*.

18. The following definitions are used in the provisions addressed in this report, however they are addressed in other reports as follows:
- ‘Reasonable mixing zone’ - refer S42A report: *Water quality management – general matters*.
 - ‘Authorised’ - refer S42A report: *General Approach*
 - ‘Good management practices – refer S42A report: *Water quality management – general matters*
 - Natural character of rivers, lakes and wetlands, refer to S42A report: *Significant natural and historic heritage*.

Overview of submissions

19. A total of 63 submitters made submissions on matters in this section. This breaks down into the following respective [submitter number/submission points raised]: activities in the beds of lakes and rivers [44/176]; activities affecting wetlands [35/86]; General conditions [21/30]; and the damming and diverting water [35/101].
20. Most of the submissions provided partial support with relatively minor or no amendments.
21. The environmental groups and organisations generally sought tighter controls and greater recognition for ecological values, in particular significant values (e.g. Royal Forest and Bird Protection Society NZ, Northland Fish and Game, the Minister of Conservation).
22. Many requests sought greater recognition for activities associated with an industry sector or infrastructure interests, through reducing activity status (e.g. Horticulture NZ, Federated Farmers, district councils and utility operators).

Wetland definitions

Submissions and analysis

23. New Zealand Transport Agency suggest a that a diagram is provided which shows the relationship between the wetland definitions to enable a clearer understanding of: Constructed Wetland; Induced Wetland, Natural Wetland, Reverted Wetland, Wetland. Similarly, CEP Services Matauwhi Limited, Horticulture New Zealand and Federated Farmers requested cross-reference to the other definitions.

24. Otherwise there were a range of submissions requesting amendment to wetland definitions, such as:
- i. Reproduce the Regional Policy Statement Appendix 5 in the Proposed Plan appendices (CEP Services Matauwhi Limited, GBC Winstone).
 - ii. Remove reference to 'pakihi' in Northland (Cathcart B).
 - iii. Clarify that 'significant wetlands' do not include 'constructed wetlands' (MLP LLC, Landcorp Farming Limited).
 - iv. Change "significant wetland" definition such that wetlands identified on the Northland Regional Council "Biodiversity Wetlands" maps in the Ngāwhā geothermal field location are specified as "significant wetlands". (Ngāwhā Generation Ltd).
 - v. Adopt RMA definition of wetland for 'natural wetland' (Dairy NZ, Royal Forest and Bird Protection Society NZ), exclude wetlands that are not dominated by indigenous vegetation (Federated Farmers), or otherwise reduce subjectivity of the wetland definitions (Alspach R) or use the Wikipedia wetland definition (Herbert P).
 - vi. Require 'reverted wetlands' to have exhibited wetland features for at least 6 months (Federated Farmers).
 - vii. Delete reference to 'reverted wetland' (Fonterra, Top Energy)
 - viii. Create a new definition of 'artificial wetland' (Horticulture New Zealand) or Man-made wetland (GBC Winstone, Royal Forest and Bird Protection Society NZ) and using this term where 'constructed wetland' appears
 - ix. Incorporate 'inducted wetlands' into the 'constructed wetland' definition (Federated Farmers, Top Energy), include roadside drainage channels as examples of constructed wetlands (New Zealand Transport Agency).
 - x. Exclude from 'constructed wetland' land management agreement registered under the Land Transfer Act 1952 (or 2017), or protected private land (under Reserves Act 1977, Queen Elizabeth the Second National Trust Act, or Conservation Act 1987). (Northland Fish and Game).

Recommendation

25. The ability to change wetland definitions is very limited, as they are incorporated into the Regional Policy Statement for Northland and that limits ability to give relief to requested changes outlined in points v. to x. above. I do however recommend the inclusion of a new diagram and explanatory text in the Regional Plan to act as a one stop shop for all

wetland¹ definitions (refer: Appendices: H.8 Wetland definitions relationships). This also goes some way to clarification requested in points i. to iii. above. Some other minor changes are recommended at clarify how the wetland definitions relate to other matters in the plan, for example confirming the a 'artificial watercourse' does not include 'natural wetland'.

26. I do not recommend that the 'significant wetland' definition incorporates reference to the mapping requested in point iv. above, as I consider that wetland maps should be applied using a consistent methodology to a more encompassing extent of Northland.

Evaluation of recommended changes

27. As the recommended changes do not materially alter current definitions, the changes have minor effect and are within the scope of a change under clause 16, Schedule 1, RMA.

Mapping of significant wetlands and their inclusion in the Proposed Plan

Submissions and analysis

28. Submitters requesting that significant wetlands are mapped and included in the Proposed Plan (as a Schedule and/or maps) include Fonterra, Northland Fish and Game, Top Energy. Similarly, Federated Farmers and Northland Fish and Game requested the definition of 'significant wetland' refer to wetlands that have been identified and mapped.
29. Similarly, Royal Forest and Bird Protection Society NZ seek mapped significant ecological areas that would incorporate significant wetland values.
30. Ngāwhā Generation Ltd request a change "significant wetland" definition such that wetlands identified on the Northland Regional Council "Biodiversity Wetlands" maps in the Ngāwhā geothermal field location are specified as "significant wetlands".

¹ Constructed wetland, Indigenous vegetation, Induced wetlands, Natural wetland, Reverted wetlands, Significant wetland and Wetland

Recommendation

31. I do not recommend incorporating maps of significant wetlands into the Proposed Plan because:
- The maps on council's website do not identify significant wetlands.
 - This mapping only indicates wetland locations that are currently known by council, however they are incomplete.
 - To the most part, Council's wetland maps are based on aerial photography that was mostly over a decade old at the time the lines were drawn, therefore boundaries may be misleading.
 - Over a ten-year period, some wetlands can expand and contract significantly.
 - Where known the wetland maps include the class (type) of wetland, that can be useful in determining significance, however other information (e.g. whether they comprise indigenous vegetation) is necessary to confirm wetlands meet the significance criteria in Appendix 5 of the Regional Policy Statement.
32. Perhaps one exception to the above issues with wetland mapping, is wet heathland (e.g. gumland), this can have very high biodiversity values, is more stable and therefore lends itself to reliable long-term mapping, and is currently vulnerable to loss (e.g. cultivation, land development, forestry, kauri log extraction).
33. Council has been updating maps on wet heathland, however this is not yet complete and I cannot recommend its inclusion before there further work is done to improve our confidence in it. A case in point is the mapping provided as part of the Ngāwhā Generation Ltd request (para.30 above) which is likely to relate mostly to this wetland type. Comparison of the wetland maps provided by Ngāwhā Generation Ltd both identify wetlands that were not previously known to council, and council's data highlights areas where other wetlands may be present in this area.

Evaluation of recommended changes

34. There are no changes recommended, therefore these recommendations are within the scope of a change under clause 16, Schedule 1, RMA.

Other matters

35. Refer to Appendix A for the summary of submission points, analysis and recommendations made on the wetlands and beds of lakes and rivers provisions not addressed in the key matters sections of this report.

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.

Provision	Summary of main submission points	Discussion	Recommendation
Channel (new) definition	Whangarei District Council and Kaipara District Council request a definition for this term. No specific definition was requested.	<p>At times, the use of ‘channel’ provides no benefit over ‘river’ and therefore for clarity in these cases I recommend ‘river’ is used i.e.</p> <ul style="list-style-type: none"> • C.2.1.10 Construction and instillation of structures – permitted activity ...single span bridges 4).c) the bridge abutments or foundations are constructed parallel to the channel river alignment, and • C.3.6 River channel diversion <p>Other times where ‘channel’ is used, we believe the term helps focus on the main water flow and has some benefit e.g. C.2.1.2 4) on completion of the activity, the bed is graded so that there are no barriers to water movement in the Channel. C.2.1.3 minor channel realignments (within the bed of a river). In such cases, we do not consider a definition is necessary as the rule is clear that the activity must occur within the bed of a river.</p>	Amend as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>
New introductory text to sections C.2 and C.3	The Minister of Conservation requested a note confirming Freshwater Fisheries Regulations 1983 requirements for fish passage.	I believe that additional text confirming these requirements reiterates the importance and serves as a reminder to not impede fish passage.	Include an explanatory note at the beginning of both sections as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>

Provision	Summary of main submission points	Discussion	Recommendation
New rule and other amendments.	Top Energy requested new rules for new electricity transmission structures outside a significant area (restricted discretionary) or within a significant area (discretionary). Similarly, Transpower requested discretionary status for Regionally Significant Infrastructure, that might otherwise be non-complying.	Other than a request to enable of essential infrastructure, the justification to create a rule specific to electricity generation is not clear. I do not believe it is necessary to treat electricity transmission structures differently in these rules, other than through consideration of policy that recognises the need for infrastructure.	No change.
'Ephemeral watercourses' as referenced in C.2.1.1 to C.2.1.17	Exclude ephemeral watercourses in definitions and or rules affecting beds of rivers and lakes (Bay of Islands Planning Limited and Carrington Resort Jade LP).	Under the RMA ' <i>river means a continually or intermittently flowing body of fresh water</i> ' and I do not believe this includes ephemeral streams. The Proposed Plan includes a definition for an <i>Intermittently flowing river</i> and a recommended <i>Ephemeral stream</i> definition. I believe no further clarification is necessary.	No change.
C.2.1.1 C.2.1.2 C.2.1.3 C.2.1.4 C.2.1.9 C.2.2.2 C.2.2.3	Miru M and Tinopai RMU Limited have requested to include a new condition for all of these rules stating: <u><i>the activity does not occur within an Area of Significance.</i></u>	Conditions of rules: C.2.1.1, C.2.1.2, C.2.1.3 and C.2.1.9, already state that the activity shall not be in a mapped site or area of significance to tangata whenua. Therefore, I do not believe the requested text is necessary. The remaining rules (C.2.1.4, C.2.2.2 and C.2.2.3, do not include exclusion of mapped sites or areas of significance to tangata whenua, because the rules respectively involve: continuation of established activities; small scale structures; and activities within constructed wetlands that are for essentially artificial. I do not consider that any further changes are required.	No change.
Activities in the beds of lakes and rivers C.2.1.3 C.2.1.5 C.2.1.10 C.2.1.11	Similarly, Miru M and Tinopai RMU Limited have requested to include a new condition for these rules, requiring tangata whenua to be given at least 10 working days' notice, prior to works commencing.	I do not support the requested relief because I do not consider that tangata whenua need to be notified in the following circumstances: Rules C.2.1.3, C.2.1.5 and C.2.1.11 are focused on enabling people to maintain the free flow of water within rivers and flood schemes, as well as to mitigate bank	No change to rules.

Provision	Summary of main submission points	Discussion	Recommendation
<p>Activities in wetlands C.2.2.1 C.2.2.2 C.2.2.3 C.2.3 General conditions Condition 25</p> <p>Damming and diverting water activities C.3.1 and C.3.2</p>		<p>erosion, these are beneficial activities that will reduce the risk of flood events impacting on people and property.</p> <p>I do not consider it necessary to notify tangata whenua before the start of any works for the remaining rules (C.2.1.10, C.2.2.1, C.2.2.2, C.2.2.3, C.2.3, General Condition 25, C.3.1 and C.3.2) on the grounds that council notification is sufficient, or the activity is small scale or notifying tangata whenua would be of little benefit to Council assessment of potential adverse effects.</p>	
<p>Various provisions Council notification period, including in these sections: C.2.1.2, C.2.1.3, C.2.1.5, C.2.1.10, C.2.1.11, C.2.2.1, C.2.2.2, C.2.2.3, C.2.3 General condition 25 C.3.2</p>	<p>Landowners Coalition Inc request that the Council notification period referred to in various conditions, is amended from 10 days to 2 days throughout the plan.</p>	<p>2 days may be sufficient if these conditions were just about council being aware of activities occurring should other members of the public e.g. raise a complaint about it. However, I do not believe 2 days is a sufficient notice period for council to effectively monitor these activities (should it decide to). However, some periods have been set at 5 days and we recommend reducing instances that referred to 20 working days to 10, in recognition of this request and to give greater flexibility to people carrying use these activities e.g. C.2.1.10 Construction and installation of structures – permitted activity 3) g) and 4) d), and C.2.2.2 Structures in wetlands – permitted activity. Condition 1) d).</p>	<p>Amend the following rules as recommended: C.2.1.10 3) g) C.2.1.10 4) d) C.2.2.2 1) d).</p>

Provision	Summary of main submission points	Discussion	Recommendation
C.2.1.1 – Introduction of plants	Allow removal of existing willows (Alspach R) or any exotic tree (Honeymoon Valley Landcare Group, Waldron S).	I believe these activities are likely to be undertaken without bed disturbance RMA s.13(1)(b), and s.13(2A)(b) and (c) include the presumption that removal of plants and their habitat is permitted unless controlled by a rule, therefore I do not believe it is necessary to specifically provide for the requested activities.	No change.
C.2.1.1	Insert text into condition 3 “and where necessary cleared” before the requirement to ensure to trees do not obstruct the free flow of water (Horticulture New Zealand).	I accept that there may be circumstances where alternative measures can mitigate obstruction of the free flow of water cause by trees. However, I do not believe the suggested text provides any further clarification.	No change.
C.2.1.1	Delete condition 3 (Kaipara District Council, Whangarei District Council) on the grounds that planting of plant species is often designed to slow water flow and decrease erosion	I believe planting designed to slow water flow and decrease erosion, is likely to comply with condition 3, in that designed water slowing is quite different to ‘obstruction of the free flow of water’.	No change.
C.2.1.1	Require planting to be set back from the ‘active channel’ (Royal Forest and Bird Protection Society NZ).	As referred to by Kaipara District Council, Whangarei District Council above, planting is often designed to slow water flow and decrease erosion and this may be in the active channel. Therefore, I do not believe the requested restriction should apply to this activity.	No change.
C.2.1.1	Do not permit planting in the bed of a water body that has outstanding natural character. (Royal Forest and Bird Protection Society NZ)	I accept that exotic trees have potential to adversely affect outstanding natural character values. Therefore, recommend an additional condition, excluding the planting of exotic tree species in areas where these values have been mapped.	Include additional recommended text.
C.2.1.1	Do not permit planting of willow hybrids (Cathcart B)	Council Land Management Team staff have advised me that crack, grey and weeping willow hybrids should be avoided and therefore I recommend condition 1 excludes these.	Text amendment to list willow hybrids that are not permitted to plant.
C.2.1.1	Do not permit planting of any exotic tree (Honeymoon Valley Landcare Group and Waldron S).	I am not aware of regional issues with the planting of exotic species in the beds of rivers.	No change.
C.2.1.1	Federated Farmers, request Condition 4 amendment, to delete ‘no’ and introduce a	I consider ‘minimal’ as too subjective, and believe council would not be unreasonable when monitoring this	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	lesser standard of 'minimal' erosion (as a result of planting).	condition i.e. there would need to be some concern over the extent of erosion, for council to enforce this condition.	
C.2.1.2 C.2.1.12 C.2.1.13 C.2.1.14 C.2.1.15 C.2.1.16 C.2.1.17 C.2.2.4 C.2.2.5	Northland Fish and Game requested to add reference to the 'Schedule of values' the submitter requests be added to the Plan.	The submission does not provide enough information about the nature of the 'Schedule of Values' for me to be able to assess the merits of this proposal. For example, from what I can tell from the information provided in the submission, the costs of developing the Schedule of Values (which the submitter suggests should be at the river reach scale) would be significant – and it's not clear how these would compare with the benefits of the schedule.	No change.
C.2.1.1 C.2.1.7 C.2.1.10 C.2.1.12 C.2.1.13 C.2.1.15 C.3.3 C.3.5 C.3.6 C.3.7	Similarly, Royal Forest and Bird Protection Society NZ request inclusion of reference to significant ecological areas meeting the criteria in the RPS, so that areas meeting these criteria are generally non-complying activities.	The request for mapping of significant ecological areas is addressed in the S42A report: <i>Significant natural and historic heritage</i> , in Appendix A - <i>Response to other matters raised in submissions, Significant Indigenous Biodiversity</i> . With regards to the approach taken to significant values in these rules, the permitted and controlled activities have been restricted to activities with less than minor adverse effect. Otherwise activities are generally non-complying.	No change to rules.
C.2.1.2, C.2.1.11,	Heritage NZ have requested to amend these rules by inserting the following condition: <u><i>the activity is not in a Historic Heritage Area.</i></u>	The inclusion of reference to Historic Heritage Areas is subject to the jurisdictional issue covered in – S42A report: <i>Significant natural and historic heritage</i> .	No change to rules.
C.2.1.2	Federated Farmers have requested to amend clause 6) as follows <u>there is no minimal erosion of the beds or banks of the river or lake as a result of the planting</u>	I consider that the submitters request is too subjective to be included within a permitted activity rule.	No change to rule.
C.2.1.2 C.2.1.3	Hayes M has requested to delete condition 2) and replace with <u>the person in charge is responsible for engaging a suitably qualified operator</u>	I do not support the requested relief. I consider it necessary for the regional council to mandatorily be notified before the work commences and this will not happen if this condition is changed.	No change to rule

Provision	Summary of main submission points	Discussion	Recommendation
C.2.1.2 C.2.1.3	Heritage NZ have requested to amend the rules by adding a new condition stating <u>the activity does not result in the modification or destruction of historic heritage that has not yet been assessed for significance and any adverse effects can be appropriately avoided or mitigated.</u>	I do not support the requested relief because I consider that for the rule to be certain and enforceable, it would not be appropriate to include a condition relating to historic heritage that has not yet been assessed.	No change to rule.
C.2.1.2	King G has requested to insert a threshold into condition 2) above which it is necessary to notify council.	I do not support the requested relief. I consider that any extraction of material (regardless of the volume) needs council notification prior to the works starting. This is because even small volumes of gravel or rock being removed from some rivers have the potential to cause adverse effects and so inserting an additional threshold is not appropriate.	No change to rule
C.2.1.2	The Minister of Conservation has requested to amend the rule as follows: <i>4) on completion of the activity, the bed is graded <u>to natural contours (i.e. no dips, humps and hollows)</u> so that there are no barriers to water.</i> Insert the following conditions: <i>9) <u>Extraction must not occur closer than 5 metres from the water's edge</u></i> <i>10) <u>the extraction shall not extend to a level deeper than whichever is the greater of the following: (i) 0.1m above the water level adjacent to the extraction site, or (ii) 0.5m below the original height of the beach where the extraction is occurring</u></i> <i>11) <u>no machinery shall operate in an area of the river bed covered in water, unless for crossings to access and haul gravel. For this purpose, river crossing should be limited to one crossing point at each extraction location.</u></i>	The submitter has not provided any evidence to demonstrate why the relief sought is more appropriate than the existing rule. I am therefore unable to support the requested amendments.	No change to rule.

Provision	Summary of main submission points	Discussion	Recommendation
	<p><u>12) No stockpiling of extracted gravel on the bed of the river.</u></p> <p><u>13) Cleaning and/or other procedures must be used to prevent the spread or introduction of any pest.</u></p>		
C.2.1.2	<p>Northland Fish and Game have requested to amend the rule as follows: In condition 1) delete 100 cubic metres and replace with 50 cubic metres Condition 5) insert <u>flowing</u> before water. Add the following three conditions: <u>9) if the activity is within a river where trout are known to be present or listed in the Schedule of Values, Northland Fish and Game Council is notified (in writing or by email) of the date of the commencement of any works, at least 10 working days prior to the work starting, and</u> <u>10) the activity maintains or improves any legal public access to the river, and</u> <u>11) fish passage shall not be impeded as a result of the activity.</u></p>	<p>I do not support the requested amendments because the submitter has not demonstrated why the requested relief is more appropriate than the proposed rule.</p>	<p>No change to rule.</p>
C.2.1.2 C.2.1.3	<p>Simpson A has requested to amend the rule to allow up to 200m³ of gravel extraction per 12 month period.</p>	<p>The submitter has not provided any evidence as to why the requested relief is more appropriate. I am therefore unable to support this.</p>	<p>No change to rule.</p>
C.2.1.2	<p>Whatitiri Resource Management Unit and Environmental River Patrol Aotearoa has submitted on the rule but not sought any specific amendments.</p>	<p>The submitter has not sought any specific amendments. I therefore am not recommending any changes.</p>	<p>No change to rule</p>
C.2.1.3	<p>Federated Farmers have requested to define 'good practice erosion and sediment control measures'</p>	<p>I am recommending the rule refer to best practice erosion and sediment control measures, as this is consistent with requirements within the earthworks section of the Proposed Plan.</p>	<p>Amend rule C.2.1.3 as outlined in the <i>Proposed Regional Plan for Northland – S42A</i></p>

Provision	Summary of main submission points	Discussion	Recommendation
			<i>recommended changes</i>
C.2.1.3	Horticulture New Zealand have requested to amend condition 1) as follows: <u>For works undertaken in rivers other than modified water courses</u> the regional council...	I consider that it is appropriate to notify the council if the works are occurring within a modified water course as these are still rivers and the council still needs to be made aware that the activity is occurring because the chance of there being potential adverse effects is the same as within non-modified water courses.	No change to rule.
C.2.1.3	Kaipara District Council and Whangarei District Council have requested to remove the contradiction between conditions 6), which enables channels to be widened by up to 20% and 7), which states that modification must be within the bank full edge.	I do not support the relief sought by the submitters as I do not see as contradiction. A 'channel' is where water flows within the bed of a river and is related to primarily gravel beds. If the channel happens to be the whole 'bed of the river' (i.e. incised stream in clay), then applicants cannot re-align the bed of a river. The bottom line is that to comply with this rule, works have to be within the bank full edge of a river.	No change to rule.
C.2.1.3	LaBonte' A&R have requested to amend the rule as follows: 1) <i>The regional council's monitoring manager is notified (in writing or by email) of the date of the commencement of any works at least five working days prior to the work starting, <u>or within 24 hours of work starting if there is a documented need to perform the work on an emergency basis to avoid nuisance or health and safety situations, and...</u></i> <i>Advice note: A documented need can be <u>satisfied through photographic documentation or assessment by a qualified person.</u></i>	I do not support the relief sought by the submitter – who has not provided any examples. I have sought advice from the consents and monitoring department and they agree with my recommendations.	No change to rule
C.2.1.3	Landcorp Farming Limited have requested to amend the rule to provide for a practical response to flood debris during emergency situations, such as enabling removal of debris	The submitter has not demonstrated why the relief sought is more appropriate than the proposed rule, meaning I cannot support it.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	to mitigate flooding effects with subsequent notification to Council of the actions taken, so that in emergency situations pre-notification is not required but rather five days is provided to notify Council in writing post the remedial works being undertaken.		
C.2.1.3	The Minister of Conservation has requested to add the following conditions: <i>12) The activity shall provide for the safe passage of fish both upstream and downstream.</i> <i>13) The activity shall not take place during August to December inclusive</i> <i>14) the activity does not take place in an outstanding freshwater body</i> <i>15) the activity does not take place in identified Inanga spawning habitat or threatened species habitat.</i>	I do not support the requested changes. I consider that fish passage is adequately addressed in the general conditions. I consider that restricting the activity between August and December could lead to an increase in flood hazard risk, especially if debris blockages are accumulating. I consider this rule is enabling beneficial activities that will reduce the risk of adverse flooding effects. I do not consider that the works will adversely impact on an outstanding freshwater body.	No change.
C.2.1.3	Northland Fish and Game have requested the inclusion of the following conditions: <i>12) the activity maintains or improves any legal public access to the river, and</i> <i>13) fish passage shall not be impeded as a result of the activity.</i> <i>14) the instream activity is of less than 5 hours cumulative duration.</i>	I do not support the requested relief. I consider that the general conditions adequately provide for fish passage. I consider that the request that the instream activity is less than 5 hours is very arbitrary and not backed up by evidence. I do not support requested condition 12) because I do not think that people using this rule to undertake activities such as removing debris blockages and removing material/vegetation from rivers should have to maintain or improve public access to rivers.	No change to rule.
C.2.1.3	Te Roroa Development Group have requested a new condition to read: <u>the activity does not impact on the cultural or traditional use of the river.</u>	I do not support the requested relief because I consider that the activity is for beneficial purposes (such as flood mitigation) and the suggested condition is too subjective to be practical.	No change to rule.
C.2.1.3	Vision Kerikeri and Royal Forest and Bird Protection Society NZ have requested to	I do not support the requested relief. I consider that condition 7) of the 'river, lake or wetland disturbance	No change to rule.

Provision	Summary of main submission points	Discussion	Recommendation
	make the rule conditional on there being no change to the water level in any wetland. They have both also requested that the maintenance of the free flow of water and mitigating bank erosion in rivers classed as outstanding freshwater body should be a discretionary or restricted discretionary activity in an outstanding freshwater body.	general conditions' sufficiently addresses the risk of water level of wetlands being adversely affected by the activity. I also do not support the request to make an activity more restrictive if it occurs within an outstanding freshwater body, primarily because this rule does not contemplate the placement of structures or similar material within river beds (as opposed to C.2.1.11) and is focused on removing debris blockages and vegetation/material that could increase the risk of harm from flood events. I do not consider that these activities will impact on the values and characteristics of outstanding freshwater bodies.	
C.2.1.3	Whatitiri Resource Management Unit and Environmental River Patrol Aotearoa believe that a reply from the regional council should be required before an activity is started.	I note that the submitter does not actually request to change the wording of the rule. No changes are therefore recommended.	No change to rule
C.2.1.4 – Existing authorised structures	Rename the rule 'Modification of existing structure' (New Zealand Transport Agency); Allow activities to increase the structure scale by 5% (Fonterra), or amend to read "no designed permanent increase" (Kaipara District Council and Whangarei District Council).	I do not support the requested changes as I do not consider that it is appropriate to contemplate an increase in dimensions (even by 5%) due to uncertainty and that this includes some very large structures.	No change to rule
C.2.1.4	Include reference to other relevant RMA s.13(1)(a) activities by including additional text: 'use' and 'replacement' (Top Energy, Northpower and KiwiRail).	I do consider that these activities are relevant to maintaining existing structures and provide extra clarity.	Include recommended text.
C.2.1.4	Insert reference to provide specific references to Regulation 14 of the Resource Management (National Environmental Standards for Electricity Transmission Activities (NESETA) (Transpower).	I believe that it would add clarity to reference appropriate National Environmental Standards in the Proposed Plan, whether in specific rules, the beginning of appropriate sections or elsewhere.	Include the recommended reference to NESETA.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.1.5	Alspach R notes that there are a number of flood control schemes which will need to raise the level of their stopbanks to be able to maintain the integrity of the flood protection in the future. Submitter suggests the wording of this rule might hinder this.	I note that the submitter does not actually request to change the wording of the rule. No changes are therefore recommended.	No change to rule.
C.2.1.5	Cathcart B has requested to amend condition 1) to read: <u>the maintenance and repair does not alter the form of the existing flood defence and there is no increase in the level of protection provided by the structure.</u> Kaipara District Council and Whangarei District Council have requested to amend condition 1) to read: <u>there is no designed permanent increase in dimensions</u>	I do not support the requested changes. I do not consider that it is appropriate to contemplate an increase (even very minor) in dimensions of flood defences within a permitted activity rule. This is because when the height of flood defences (such as stopbanks) are raised, it leads to an increase in the potential for flooding of upstream or downstream properties. I consider that any increase in dimensions need to be subject to the resource consent process.	No change to rule.
C.2.1.5	New Zealand Transport Agency have requested to clarify the relationship between rules C.2.1.5 and C.2.1.11, with the outcome that the maintenance and repair of river banks is permitted, subject to conditions C.1.11(4), (6) to (10) and (12).	I note the submitter has not actually requested to amend any text. However, for completeness, I note that rule C.2.1.5 addresses the 'maintenance and repair' of flood defences (which may include minor bank protection structures), whereas rule C.2.1.11 focuses on the placement of 'new' bank protection works.	No change to rule
C.2.1.6 and C.2.1.7	Whatitiri Resource Management Unit and Environment River Patrol-Aotearoa both oppose these rules, however provide no specific amendments.	The submitter provides no proposed wording and nor is it immediately apparent, therefore I am unable to assess this request.	No change to rule.
C.2.1.7 – Existing mooring structures	Royal Forest and Bird Protection Society NZ requested for this rule to not permit existing mooring structures in Outstanding Freshwater bodies, Outstanding Natural Character Areas, or Significant ecological areas.	This rule is limited to existing structures that are less than 10m ² and meet general conditions. It is intended that these limitations provide a filter so that the structures are likely to avoid adverse effect on these values.	No change to rule.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.1.8 – Fish passage structures	Include 'deposition of materials' as a permitted fish passage structure / activity (New Zealand Transport Agency).	I believe that 'materials' is too board a term, however, I agree that recognising 'rock placement' would provide some relief to this request and provide clarity that this accepted practice was always intended to be included in the rule.	Include additional text as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>
C.2.1.8 and C.2.1.9	Include a condition excluding activities when there are vulnerable indigenous fishes upstream that would be affected (Minister of Conservation).	I am aware that there is a potential for these activities to release fish species up stream (both exotic and indigenous) that may prey on upstream indigenous fish. Also, council and Department of Conservation staff are available to recommend appropriate measures to minimise this potential risk, in many parts of the region. However, on reflection I believe there is insufficient information on the distribution of indigenous and pest fish species to support the requested text and provide the certainty required for permitted activity conditions. Therefore, I recommend an advice note directing the reader to council and Department of Conservation staff for information on potential pest fish populations.	Include advice note as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>
C.2.1.8	Whatitiri Resource Management Unit and Environment River Patrol-Aotearoa requested amendment to provide additional assurance that the fish ladder will be maintained and operable.	The purpose of the activity is to provide fish passage and compliance with C.2.3 General conditions, includes the requirement for structures to be maintained in good condition and provide for fish passage. However, I recommend that some further clarity and relief to the submitters request, can be gained through amending C.2.3 General condition Structure durability, maintenance and off-site effect avoidance, Condition 14, to read: <u>“14. The structure must be maintained in a sound condition, and functioning for the purpose it was designed, ...”</u> .	Include the recommended amendment outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>
C.2.1.9	Require council notification and approval prior to works (Whatitiri Resource Management Unit and Environment River Patrol-Aotearoa)	The person doing the activity is required (C.2.3 General condition 25) to notify council if the contributing catchment is greater than 50 hectares. I believe this will	No change.

Provision	Summary of main submission points	Discussion	Recommendation
		capture all but the smallest structures, and that no additional notification or approval is necessary, therefore I do not support this.	
C.2.1.10 – Construction and installation of structures	Broadspectrum suggested amending C.2.1.10 (with specific reference to installation of culverts) by linking general condition 26 of rule C.2.3 (relating to a temporary flow diversion around work sites) to the rule. Broadspectrum believes it needs to be clearer that temporary diversion (around construction sites) is permitted but the rule as currently written is not clear enough that this is possible.	I agree further clarification would be beneficial and recommend additional reference to temporary damming and diversion activities in C.2.1.10 the opening sentence and condition 1).	Include the recommended amendment.
C.2.1.10	Federated Farmers requested that these rules do not apply with regards to stock crossings in significant wetlands or outstanding freshwater bodies, when required by stock exclusion (from waterbodies) rules C.8.1.1 and C.8.1.2.	I agree in principal with the desirability of measures to encourage stock exclusion. However, I cannot recommend permitting stock crossings in these high value areas, as there is potential for adverse effects to be more than minor.	No change.
C.2.1.10	KiwiRail request in condition 3 for culvert crossings, sub-clause e) iii) include reference to ' <u>road or rail...</u> '.	I agree that the circumstances for road and rail are comparable and recommend including the requested text.	Amend as requested.
C.2.1.10	Amend C.2.1.10 to allow for construction of temporary bridges and amend the list of RMA activities covered by the rule to better reflect the wording of RMA s 13(1)(a),(b) and (d). (New Zealand Defence Force)	I recommend the RMA activities covered by this rule are amended for clarification and this may provide some relief to the submitters request. Otherwise, the submitter provides no wording and nor is it immediately apparent, therefore I am unable to assess this request.	No change.
C.2.1.10	Royal Forest and Bird Protection Society NZ requests a condition to exclude permitted structures from: <ul style="list-style-type: none"> • outstanding freshwater bodies • significant ecological areas • outstanding character rivers and lakes 	The conditions already exclude most permitted structures from mapped outstanding freshwater bodies and outstanding character areas. It is not immediately apparent to me what additional amendment is being sought.	No change

Provision	Summary of main submission points	Discussion	Recommendation
		Significant ecological areas have not been mapped (refer to Section 42A report on Significant natural and historic heritage. The scale of permitted structures and associated activities has been set to avoid, all but very minor and transitory effects. Therefore, I do not recommend further amendment.	
C.2.1.10	<p>Clause 6 - maimai / game bird shooting shelter structures, submitters requested amendment from the proposed 5m² size threshold to:</p> <ul style="list-style-type: none"> • 0.5m² (Leonard B) • 10m² (Northland Fish and Game – to align with permitted structures under the Building Act and for the safety of hunters) 	<p>I believe 0.5m² is too small to serve any real purpose. The 5m² threshold is a role over from the Regional Water and Soil Plan for Northland and seems to balance the potential for adverse effects against providing for the establishment and use of these structures. However, there is no real evidence to distinguish between 5m² and 10m² and it comes down to a judgement call on the likelihood and scale of adverse effects and need for hunters to have larger structures than previously permitted. On balance, and in the absence of more information, I recommend maintaining the 5m² threshold.</p>	No change.
C.2.1.10	<p>Northpower requested minor amendments to condition 7 to provide for consistency with the relevant definitions of the Electricity and Telecommunications legislation and Regulations, and better describe electricity and telecommunication lines and related components. Similarly, Transpower sought reference to 'conductors associated with the National grid'.</p>	<p>I believe the requested amendments from Northpower are minor and provide additional clarity and improved consistency with Electricity and Telecommunications legislation and Regulations. The recommended changes should also provide relief to the Transpower request.</p>	Amend as recommended.
C.2.1.10	<p>In the context that the National Environmental Standard for Plantation Forestry (NESPF) controls river crossings, Rayonier New Zealand requested a new condition 1, to exclude activities in beds of lakes and rivers that relate to plantation forestry.</p>	<p>I do not support an amendment to specifically permit all structures associated with plantation forestry, as the NESPF refers mainly to river crossings and not all structures.</p> <p>However, I believe that it would add clarity to reference appropriate national environmental standards in the</p>	Amend as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
		Proposed Plan. I understand that there is a recommendation to include an explanation at the start of the rules section to explain the relationship between national environmental standards and the Proposed Plan. Refer S42A report: <i>General approach</i> .	
C.2.1.10	The Minister of Conservation requests additional conditions to address fish passage and conditions for culverts, and that weirs provide fish passage and are not permitted in outstanding waterbodies or significant wetlands.	I support the request to amend the culvert installed depth to a percentage (20-40%) of the culvert, rather than 100mm, to reduce the risk of perched culverts. With regards to weirs, these fall within the 'dam' definition and section C.3 that has requirements aligned with this submitters request for weirs to provide fish passage and to not be located in outstanding waterbodies or significant wetlands. I believe the other requested amendments are overly complex and the reasons for the proposed changes are not immediately apparent, therefore I am unable to assess this request further.	Amend as recommended.
C.2.1.11	Heritage NZ have requested a new condition 13) as follows: <u>the works are not in a Historic Heritage Area</u>	I do not support the requested relief as it is not within the functions that the regional council can manage.	No change.
C.2.1.11	Labonte' A & R have requested to amend the rule as follows: 2) <i>Deposition of material in or on the bed of a river for the purposes of bank protection or reinstatement, <u>including minor channel realignments (within the bed of a river), and ...</u></i> 5) <i>the regional council's compliance manager is notified (in writing or by email) of the date of the commencement of any works, at least 10 <u>5</u> working days prior to the work starting, <u>or within 24 hours of work starting if there is a documented need to perform the work on an emergency basis to avoid</u></i>	I do not support the relief sought by the submitter – who has not provided any examples. I consider that if there is an 'emergency basis', then the emergency works provisions of s330 RMA can be used. Also, the inclusion of reference to a qualified person can be subjective. I have sought advice from the regional council consents and monitoring teams and they agree with my recommendations.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	<p><u>nuisance or health and safety situations, and...</u></p> <p>And add the following advice note: <u>Advice note: A documented need can be satisfied through photographic documentation or assessment by a qualified person.</u></p>		
C.2.1.11	<p>Northland Fish and Game have requested to amend the rule by adding the following two conditions:</p> <p>13) <u>the activity maintains or improves any legal public access to the river</u> 14) <u>the instream activity is of less than 5 hours cumulative duration.</u></p>	<p>I do not support the requested relief for the same reasons outlined in my response to the submitters relief sough for rule C.2.1.3.</p>	No change.
C.2.1.11	<p>Royal Forest and Bird Protection Society NZ have requested to add a condition that ensures there is no change to the water level in any adjacent wetland which is hydraulically connected to the river.</p>	<p>I do not support the requested relief because as notified, the rule requires compliance with the general conditions in section C.2.3. Condition 7) of these conditions relates to activities not causing changes in water levels of natural wetlands to an extent that may adversely affect the wetlands natural ecosystem. I prefer this wording to that of the submitters as, in theory, it would allow a minimal change to water levels, so long as ecosystem health is not affected.</p>	No change.
C.2.1.11	<p>Whatitiri Resource Management Unit and Environmental River Patrol Aotearoa believe that a resource consent should be obtained and public access addressed</p>	<p>I note that the submitter does not actually request to change the wording of the rule. No changes are therefore recommended.</p>	No change to rule.
C.2.1.12 – Freshwater structures – controlled activity	<p>Bay of Islands Maritime Park Inc requested the rule be amended to discretionary and Royal Forest and Bird Protection Society NZ requested it to be a restricted discretionary activity.</p>	<p>I believe potential adverse effects are controlled so that they are no more than minor, through</p> <ul style="list-style-type: none"> • limiting culvert length to 25m • avoiding identified areas with significant and outstanding values, and • limiting adverse effects on indigenous fish. 	No change to rule.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.1.12	The three district councils requested deletion of condition 2, limiting culvert length to 25m on the grounds that road reserves are 20m wide.	I believe that removing the 25m limitation would include activities with too great a potential for significant adverse effects. Therefore, I do not support this request.	No change to rule.
C.2.1.13	Royal Forest and Bird Protection Society NZ requested amendment so that structures in significant and outstanding areas are non-complying.	We believe that permitted and controlled activity structures have been confined to matters that are likely to have only transient or less than minor adverse effects. Structures in significant and outstanding areas not meeting those rules, fall under non-complying activity Rule C.2.1.15. Therefore, no change is necessary.	No change to rule.
C.2.1.14	Kaipara District Council have requested that additions to flood defences become a restricted discretionary activity, with one of the matters of discretion being the scale of the addition.	I do not support the requested relief. I consider that additions to existing flood defences have the potential to cause significant adverse effects and there is a risk that if the rule is amended to restricted-discretionary, some key issues/matters of discretion might be missed and therefore not be able to be considered.	No change to rule.
C.2.1.14	Whatitiri Resource Management Unit and Environmental River Patrol Aotearoa have not requested any specific relief.	I note that the submitter does not actually request to change the wording of the rule. No changes are therefore recommended	No change to rules
C.2.1.15 - Structures in a significant area - non-complying activity	Requests for a different activity status included: <ul style="list-style-type: none"> • structures constructed for the purpose of meeting stock exclusion rules are controlled activities (Federated Farmers) • local infrastructure is discretionary (all three district councils) • repair, alteration or replacement of existing structures is discretionary (Landcorp Farming Limited) • discretionary status for infrastructure (Top Energy and Transpower) 	I do not believe it is necessary for these activities to have a different activity status as they are generally recognised through consideration of policy.	No change.
C.2.1.17	Bay of Islands Maritime Park Inc have requested to amend the rule by specifying that this includes where the operation of a	The submitter has not provided any justification for the requested relief so I therefore do not assess it.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	flood defence structure could affect a significant area.		
C.2.2 - Wetlands			
New rules	<ul style="list-style-type: none"> • New Zealand Transport Agency request a new permitted activity for temporary (up to 14 days) structures in wetlands. • Royal Forest and Bird Protection Society NZ request a new rule that precludes the extraction of material such as swamp kauri. 	There was insufficient information provided to adequately assess potential adverse effects and the scale of these requested activities. Therefore, I am unable to assess this request.	No change.
C.2.2.1, C.2.2.4, and C.2.2.5	<p>Reduce activity status to discretionary in recognition of:</p> <ul style="list-style-type: none"> • local infrastructure (all three district councils) • agriculture (Landcorp) • utility operations (Transpower, First Gas Limited) 	I do not believe it is necessary to treat activities associated with these sectors differently in these rules, other than for discretionary and non-complying activities through consideration of policy that recognises their values.	No change.
C.2.2.1	<p>Minor amendments to clarify:</p> <ul style="list-style-type: none"> • that planting should be 'locally' (Minister of Conservation) or 'eco-' sourced (Royal Forest and Bird Protection Society NZ) • include reference to removal or control of 'pest' species (Horticulture NZ) • provide detail on pest species (Upperton T) • exclude constructed wetlands (Fonterra) and insert the following text 'The removal or control of vegetation of deliberate introduction of a plant in a constructed wetland is a permitted activity.' 	<p>I consider these requested amendments, respectively:</p> <ul style="list-style-type: none"> • I agree with limiting this activity to species that would naturally occur in the area, and recommend additional text 'that are native to the area', however it may not be possible to 'locally / eco-source' all species, and therefore I do not recommend the requested text. • I support including reference to 'pest' species, as it provides additional clarity. • I do not believe it is necessary to provide further detail on pest species, as the Proposed Plan defines 'pest'. • Rule C.2.2.3 permits activities in constructed wetlands, but is limited to RMA s.9 activities, that are outside the beds of rivers and lakes, therefore, by including all wetlands (whether natural or constructed) Rule C.2.2.1 allows maintenance and enhancement that involve RMA s.13 matters but are 	Amend as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
		associated with constructed wetlands. Therefore, I do not recommend the requested amendment.	
C.2.2.1	Northland Fish and Game request clarification that the purpose of the rule is to allow maintenance, amendments that allow planting of exotic species and exemption from the need to notify council prior to works in significant wetlands.	I agree with the first point regarding clarifying the purpose of the rule and I recommend amending text. However, I do not support the other requested amendments, which I believe should be assessed on a case by case basis.	Amend as recommended.
C.2.2.2	Submitters requested: a) inclusion of maimai in the rule (Northland Fish and Game) b) clarification on the scale thresholds for structures (Bay of Islands Maritime Park Inc) and c) confirmation that C.2.2.2(a) and (c) refer to individual structure dimensions, not the sum area of cumulative structures (Eastern Bay of Islands Preservation Society).	I support these requests, as they provide clarification that: a) It was the intention to continue the Regional Water and Soil Plan rule limits that permit fish and game structures (maimai/game bird shooting shelter) in wetlands. However, rule C.2.1.10 (Construction and installation of structures – permitted activity) does not make this clear and I believe maintaining the size threshold (5m ²) will have less than minor adverse effects. b) and c) I agree that amendment clarifies size thresholds and that C.2.2.2(a) and (c) apply per structure.	Amend as recommended.
C.2.2.2	Submitters requested amendment to: 1. exclude permitted structures from significant wetlands (CEP Services Matauwhi Limited). 2. permit construction, maintenance, use and removal of structures in constructed wetlands (Fonterra). 3. increase permitted structure sizes for boardwalks from 40m to 500m in length, and other structures from 5m ² to 40m ² (Landowners Coalition Inc).	I do not support these requests, as respectively: 1. I believe the adverse effects from structures of this scale are likely to be less than minor and that not permitting them in significant wetlands is unwarranted. 2. the requested activities are permitted by both this and rule C.2.2.3, therefore no amendment is necessary. 3. I believe structures of the scale requested have potential to not avoid adverse effects on significant values.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	<p>4. decrease boardwalk width from 1.8m to 1.2m as larger than this may negatively affect wetland values (Minister of Conservation) and limit permitted structures to 10 metres in length (Upperton T).</p> <p>5. permit maimai/game bird shooting shelters up to 10m² to match the Building Act permitted area and to improve safety (Northland Fish and Game).</p> <p>6. Include provision for the maintenance and repair of existing authorised structures in wetlands under this permitted activity (First Gas).</p> <p>7. Provide a restricted discretionary activity rule for activities in significant wetlands. (Royal Forest and Bird Protection Society NZ)</p>	<p>4. It is not immediately apparent why the submitter believes a reduction in permitted boardwalk width is necessary and I believe 1.2m too restrictive.</p> <p>5. As discussed with Rule C.2.1.10, the 5m² threshold is a role over from the Regional Water and Soil Plan for Northland and seems to balance the potential for adverse effects against providing for the establishment and use of these structures. However, there is no real evidence to distinguish between 5m² and 10m² and it comes down to a judgement call on the likelihood and scale of adverse effects and need for hunters to have larger structures than previously permitted. On balance, and in the absence of more information, I recommend maintaining the 5m² threshold.</p> <p>6. It is unclear to me what the extent of wetland disturbance would be, regarding existing structures. Therefore, I am unable to access this request.</p> <p>7. Regarding activity status, I believe that the scale of structure should enable adverse effects to be less than minor, while providing for activities that promote recognition of wetland values.</p>	
C.2.2.2 and C.2.2.3	Add a condition to ensure construction activities are carried out outside bird breeding periods. (Royal Forest and Bird Protection Society NZ)	The submitter has not provided suggested dates for the bird breeding periods, or what other measures would be appropriate, and therefore I am unable to access this request.	No change.
C.2.2.3 Constructed wetland alteration—permitted activity	Submitters requested deletion of reference to significant wetlands. (Fonterra, Top Energy).	I support these requests, as they provide clarification that ‘constructed wetland’ falls outside the definition of ‘significant wetland’, and therefore the reference to significant wetland was an error.	Amendment as recommended.
C.2.2.3	Submitters requested:	I do not support these requests, as respectively:	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	<ul style="list-style-type: none"> • Use the term ‘artificial wetland’ instead of ‘constructed wetland’. (Horticulture NZ) • Various amendments including a change to discretionary activity status (Royal Forest and Bird Protection Society NZ), or controlled because of concern over adverse effects and applicability of general conditions, and reducing the disturbance threshold to 250m², from 500m² for council notification. (Northland Fish and Game). 	<ul style="list-style-type: none"> • I believe the term ‘constructed’ better identifies wetlands that have been intentionally formed, and provides a clearer distinction with ‘induced’ wetlands. • The permitted activity status recognises that someone has created a wetland, where no wetland existed previously, and that failure to provide for ongoing management of such wetlands, may result in fewer being created in the future. Regarding potential adverse effects, I believe these are mitigated through the general conditions which apply to this activity (with exception of the two ‘natural wetland’ conditions). Therefore, I believe ‘permitted’ activity status is important to encourage further wetland creation in Northland. Similarly, there was no clear reason given for changing the area threshold for notifying council, and therefore I am unable to assess the request fully and do not believe it is unnecessary. 	
C.2.3 General conditions			
C.2.3 – General conditions	Leonard B requests that disturbance is disallowed altogether.	The submitter provides no proposed wording or reasons for the request, and nor is it immediately apparent, therefore I am unable to assess this request.	No change.
New condition	The Minister of Conservation requested a new condition stating that “the activity does not occur in identified Inanga spawning areas or threatened species habitat. “	While I agree with what the suggested new condition is trying to achieve, there is very poor spatial information on spawning areas and threatened species habitat in the beds of rivers and lakes and in wetlands. Therefore, I do not recommend the requested text, because it is unclear where these habitats are located.	No change.
General comment	Council needs to consider what infrastructure activities they are concerned with, with regard to flooding and include directive conditions. (Top Energy)	The submitter provides no proposed wording and nor is it immediately apparent, therefore I am unable to assess this request.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.3(1)	<p>Regarding the 'zone of reasonable mixing' and discharge standards, submissions included the following range requests:</p> <ul style="list-style-type: none"> a) Fonterra requested that the zone of reasonable mixing was carried into the Plan definitions section. Similarly, GDC Winstone requests amendments to clarify what is meant by 'zone of reasonable mixing', b) Cathcart B raises concern over the practicality of complying with the mixing zone. Similarly, Whangarei District Council request that 1 c) requires 'significant discharge of sediment must not occur'. c) Northland Fish and Game request a discharge limit of no more than 100 milligrams per litre of sediment. d) remove the reference to organic matter, or set a limit, as rotting vegetable matter can have implications for oxygen, nitrogen and visual clarity levels in waterways (Upperton T). 	<p>My recommendations for each respective request are:</p> <ul style="list-style-type: none"> a) Staff agree with the request to move the definition for this term to the definitions section. Please refer to Section 42A hearing report 'Water quality management – General matters' section on Defining the zone of reasonable mixing. b) The condition requiring no conspicuous change in colour or visual clarity after reasonable mixing and conspicuous change must not occur for longer than 12 hours per day, is comparable to the standard in the operative plan (i.e. 'short term' (undefined) visual clarity is not reduced by more than 40%). c) The requested limit requires sample analysis and does not take into account ambient sediment levels, and therefore I do not support this request. d) I do not believe amendment is necessary as the condition has the following control "discharge must not give rise to any conspicuous change in the colour or visual clarity or significant adverse effects on aquatic life'. 	Amend as recommended.
C.2.3 (2)	This condition is included in Rule C.2.1.2 (Top Energy)	Rule C.2.1.2 does not refer to the general conditions and there is therefore, no duplication, and I do not recommend any change to this condition.	No change.
C.2.3 (3, 5 and a new condition)	<p>Cathcart B requests amendment to:</p> <ul style="list-style-type: none"> - condition 3)a) so that it better manages spread and introduction of pests, - make condition 5 more specific, and - include a new condition: <i>All plant/machinery or any equipment</i> 	I agree, the requested new condition provides better control of pest introduction and spread. I recommend the text is most appropriate as a replacement for condition 5, which specifically deals with 'Avoiding pest introduction'. I believe that avoids the need to amend condition 3)a) text.	Amendment as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
	<i>operating in/on, or any material introduced to the beds of lakes and rivers, or significant wetlands, shall be free of plant contaminants, any seeds or vegetative material, which is capable of germinating or reproducing weed species.</i>		
C.2.3 (4)	Far North District Council requested clause 4 amendment to give the ability to retain vehicle fords in remote areas.	This condition, nor any others, restrict vehicle use of fords. Accordingly, the activity is allowed under RMA s.13(2A).	No change to the condition.
C.2.3 (4)	The Minister of Conservation requested amendment so that vehicles and equipment is removed once work is completed, every night and deletion of allowing this to occur up to 5 days following work completion.	I agree with the suggested deletion of text allowing five days to clear site and instead requiring this on completion, however I believe requiring removal every night is unreasonable.	Change as recommended.
C.2.3 (6)	This condition is included in Rule C.2.1.2 (Top Energy)	Rule C.2.1.2 does not refer to the general conditions and there is therefore, no duplication, and I do not recommend any change to this condition.	No change.
C.2.3 (7)	Clarify what 'change in the seasonal or annual range in water level' means (Minister of Conservation), condition 7 also unclear (Royal Forest and Bird Protection Society NZ)	The condition is essentially a roll-over of that used in the Operative Regional Water and Soil Plan for Northland, and there have been no issues with its interpretation. Furthermore, I received advice from council monitoring and enforcement staff, that this text and that in the Proposed Plan, provides a useful test and the submitter has not suggested an alternative. Therefore, I am unable to assess their request and do not recommend text amendment.	No change.
C.2.3 (7) and (8)	Horticulture New Zealand request amendment of the heading for C.2.3 (7) and 8) to ' <u>Natural</u> wetlands.'	I agree. It was an error to not exclude 'constructed wetlands' that may need management that could not meet condition 7 or 8.	Change as requested.
C.2.3 (8) and (9)	Condition 8 is uncertain in the context of achieving no more than minor adverse effect and condition 9 does not add value (Royal Forest and Bird Protection Society NZ).	The submitter provides no proposed wording, nor is it immediately apparent, therefore I am unable to assess this request.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.3 - New condition	New Zealand Amend Transport Agency request a new condition specific to mangroves that is more generous than condition 9 and allows up to 200m ² of mangrove removal adjacent to authorised structures that are located in outstanding, significant or wetland areas.	I am unsure why this condition is not being requested in relation to the mangrove provisions, which cover mangroves in both the CMA and freshwater. The mangrove provisions allow for mangrove removal either side of formed roads, bridges and removal for road safety sight lines (including in high value areas). Refer - S42A report: 'Mangrove management'. For this reason, I do not support the duplication associated with the requested new condition in C.2.3 – General conditions.	No change.
C.2.3 (9)	<ul style="list-style-type: none"> a) Fonterra state that this condition is too subjective and requested its deletion. b) Northland Fish and Game request deletion of 'indigenous' on the basis RMA s.6(a) does not place a weighting on indigenous only. 	<ul style="list-style-type: none"> a) I accept that the condition is somewhat subjective, however the submitter does not suggest an alternative and believe that it provides for indigenous vegetation disturbance or removal that is necessary for a wide range of activities. Therefore, I recommend maintaining the condition. b) I do not believe it is necessary to control exotic vegetation disturbance that is incidental to the activities covered by this condition, and are either relatively small scale or relate to existing structures. 	No change.
C.2.3 (10) and (11)	<ul style="list-style-type: none"> a) Northland Fish and Game request additional controls on erosion, scour and replanting after removal of invasive willows. b) Top Energy request these conditions are deleted and moved to Rules C.2.1.2 and C.2.1.3. 	<ul style="list-style-type: none"> a) I believe conditions 12 and 13 adequately control scour and erosion. I also believe that it is too prescriptive to control replanting after pest plant removal and consider this matter is controlled adequately by condition 5 and Rule C.2.1.1 - Introduction or planting of plants in rivers and lakes – permitted activity. b) Both C.2.1.2 or C.2.1.3 include conditions controlling fuel storage and refuelling. Also, it is necessary for activities other than those covered in Rules C.2.1.2 and C.2.1.3, to control fuel storage and refuelling. Therefore, I do not support this request. 	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.3 (11)	Amend to state there must be no fuel discharge (Royal Forest and Bird Protection Society NZ).	With the exception of recommended minor clarification, I believe this condition achieves the standard requested by the submitter and that no further amendment is necessary.	No change.
C.2.3 (17)	Northland Fish and Game request additional text referring to structures.	I believe the condition already applies to structures and that the addition text is unnecessary.	No change.
C.2.3 (19)	Whangarei District Council request that Condition 19 refers to management of the dam in accordance with NZSOLD Dam Safety Guidelines.	I agree and recommend inserting an advice note after this condition, that refers to the NZSOLD Dam Safety Guidelines. The guidelines provide useful advice on dam safety, design, RMA and Building Act requirements.	No change.
C.2.3 (20)	Amend clause 20 to: a) provide clarity on whether signs are required on council owned bridges with pipes on, and that signage may be required to be installed within "X" month(s) of pipe installation (Far North District Council). b) Refer to 'authorised pipelines' instead of 'wastewater pipes'.	a) I do not believe it is necessary to refer specifically to the location or scale of the required signage, just that the pipeline location and contents are clearly indicated. b) The submitter provides no reason for this requested change, nor is it immediately apparent, therefore I'm unable to assess this request.	No change.
C.2.3 (21)	a) The Minister of Conservation requested deletion of 21 b). b) New Zealand Transport Agency request an amendment to refer to an allowance to not require retrofitting of fish passage for culverts in the CMA.	a) The submitter provides no reason for the proposed change, and nor is it immediately apparent, therefore I am unable to assess this request. b) My understanding is that the recommended CMA provision C.1.8. 2) b) relates to culverts subject to tidal flows and therefore would enable fish passage associated with the flow. Condition 21 c) allows for existing design and authorisation. The reason for the submitters request is not immediately apparent to me, therefore I am unable to assess this request.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.2.3 (22)	a) New Zealand Transport Agency request this condition is repeated, as it is only one means of providing for fish passage and alternative methods (e.g. man-made items to provide riffles) may be more appropriate and still achieve fish passage.	a) The New Zealand Fish Passage Guidelines for structures up to 4 metres (April 2018) ² states that there are: <i>Two approaches to culvert design that are consistent with providing passage for fish and other organisms are described in these guidelines: stream simulation and hydraulic design.</i> <i>... The stream simulation approach represents international best-practice for the design of culverts to allow passage of aquatic organisms and is the recommended best-practice approach for New Zealand.</i> <i>... The hydraulic design approach represents the minimum design standards for culverts from a fish passage perspective.</i> Condition 22 is intended to reflect the 'stream simulation' approach. I recommend amendment to incorporate condition 22 into the first part of condition 21, and then to allow for the a) to c) exceptions. In this way authorised hydraulic designs of the type the submitter refers to, are acknowledged.	Amendment as recommended.
C.2.3 (24)	Amend condition 24) to read ... 'must be avoided <u>where possible</u> . (Whangarei District Council).	I believe that in the most part it should be possible to avoid contact of wet concrete or concrete ingredients with flowing or standing water, through use of permitted temporary damming and diversion activities.	No change.
C.2.3 New condition regarding notifying council	Northland Fish and Game requests a condition exempting it from notification requirements.	The reasons for the proposed change are not immediately apparent, therefore I am unable to assess the request. However, I do believe the notification requirements should apply without exceptions.	No change.

² Paul Franklin, April 2018, New Zealand Fish Passage Guidelines for structures up to 4 metres, NIWA Client Report No: 2018019HN
<https://www.niwa.co.nz/static/web/freshwater-and-estuaries/NZ-FishPassageGuidelines-upto4m-NIWA-DOC-NZFPAG.pdf>

Provision	Summary of main submission points	Discussion	Recommendation
C.3 – Damming and diversion			
C.3 – Damming and diversion	That the section be rewritten to reflect the NZSOLD Dam Safety Guidelines, (Whangarei District Council).	<p>The NZSOLD Dam Safety Guidelines is likely to provide useful guidance to people considering dam construction and therefore I recommend the guidelines are referred to in the Proposed Plan. I do not believe the section needs to be re-written, however do recommend some minor amendments to provide clarification e.g.</p> <ul style="list-style-type: none"> • ‘Natural bed level’ definition • C.3.2 Small dam - permitted activity condition 4 to clearly identify the ‘natural’ bed level i.e. the lowest point. • C.3.3 Existing in-stream dam – permitted activity – 20,000m3 <u>and</u> four metres in height • C.3.5 Existing in-stream <u>large</u> dams – controlled activity. 	Amend as recommended.
New rules and changes in activity status	<ul style="list-style-type: none"> a) Create a new restricted discretionary rule for temporary (<7 days) damming associated with operation and maintenance of pipelines (First Gas Limited). b) Permit dams in existence on or before 1 September 2017 (Landowners Coalition Inc). c) Amend rules to allow temporary damming and diverting of stormwater associated with sediment control as a permitted activity (Goodwin A). d) To enable military training activities, insert new rule to provide for the construction and removal of a temporary dam and the temporary damming of water as a 	<ul style="list-style-type: none"> a) The operation and maintenance of authorised structures is permitted in the Proposed Plan, subject to general conditions, in particular condition 26, that allows for temporary works up to 14 days. b) I believe too little is known about the number, location and condition of all existing dams, to permit them all. c) Rule C.8.3.1 Earthworks – permitted activity, provides for the temporary damming and diversion associated with earthworks. Therefore, I believe the requested amendment is not necessary. d) The submitter does not provide enough information to understand the scale, locations and duration of this activity and potential adverse effects. Therefore, I am unable to assess this request. e) I do not support the requested relief. I consider that if wetland maintenance and enhancement cannot meet 	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	<p>permitted activity. (New Zealand Defence Force).</p> <p>e) Northland Fish and Game request a new rule for damming or diverting of water in a significant wetland that may be necessary for the wetland's maintenance and enhancement. With discretion limited to: <i>Effects on ecological, hydrological, water quality and natural character values.</i></p>	<p>the requirements of C.2.2.1 Wetland maintenance and enhancement – permitted activity and Rule C.3.2 Small dam - permitted activity, then there is potential for significant adverse effect and if the rule is amended to restricted-discretionary, some key issues/matters of discretion might be missed and therefore not be able to be considered.</p>	
<p>C.3.1 C.3.4 C.3.6 C.3.7 C.3.8</p>	<p>Add reference to the 'Schedule of values' requested by Northland Fish and Game.</p>	<p>The submission does not provide enough information about the nature of the 'Schedule of Values' for me to be able to assess the merits of this proposal. For example, from what I can tell from the information provided in the submission, the costs of developing the 'Schedule of Values' (which the submitter suggests should be at the river reach scale) would be significant – and it is not clear how these would compare with the benefits of the schedule.</p>	<p>No change.</p>
<p>C.3.1</p>	<p>Minor requested amendments included:</p> <p>a) Amend so that the rule covers artificial watercourses (Refining New Zealand).</p> <p>b) Manage off-stream diversion activities in a new rule that limits controls to: not adversely affecting reliability of supply of authorised water takes, not worsening flooding or water quality (Tegel Foods Ltd).</p> <p>c) Clarifying that the rule includes sediment ponds and retention structures (Horticulture Zealand).</p>	<p>a) I agree that off-stream damming and diversion should include artificial watercourses.</p> <p>b) While I accept conditions 4 and 5 are not easy to assess against, they are consistent with the approach taken in the operative plan, and with the exception of deleting these conditions, the submitter does not propose an alternative that would control matters covered in these conditions. Therefore, I do not support the submitters request to split damming and diversion activities, however in acknowledgement that these activities are no mutually inclusive, I recommend a minor amendment to permit 'damming <u>and</u> <u>or</u> diversion ...'.</p>	<p>Amend as recommended.</p>

Provision	Summary of main submission points	Discussion	Recommendation
		c) I agree that the suggest text provides clarification that sediment ponds and retention structures are included.	
C.3.1	Requested changes to require compliance with C.2.3 general condition for fish passage (Minister of Conservation).	The nature of off-stream dams is that they are creating a reservoir of dammed water in locations where there would not have been fish. Therefore, I do not believe it is necessary to provide for fish passage.	No change.
C.3.1 and C.3.2	<p>a) Kaipara District Council and Far North District Council request specific reference to permit damming and diversion to enable water takes for public water supply.</p> <p>b) Replace condition 5 with two new conditions <i>'X) the activity does not dam or divert water from reaching a wetland'</i></p> <p>c) <i>Y) the activity will not result in the loss or degradation of indigenous vegetation in or within 10m of a wetland'</i> (Royal Forest and Bird Protection Society NZ).</p>	<p>a) It is not clear to me what additional scale of activity the submitter is requesting and therefore I am unable to assess this request.</p> <p>b) I consider adverse effects on wetlands are controlled through conditions 1, 5, 6 and to some extent 9 through providing a mechanism that enable monitoring of the larger dams.</p>	No change.
C.3.2	Request for minor clerical changes to improve readability (GDC Winstone).	I agree that the requested improvements provide clarification, and recommend comparable amendments.	Amend as recommended.
C.3.2	Requested amendments ranged from: <p>a) Leonard B who requests that C.3.2 c) is deleted, on the grounds that 'livestock should be kept away'.</p> <p>b) That this rule applies to all wetlands, not just 'natural wetlands' (Northland Fish and Game).</p> <p>c) That this rule permits activities in significant wetlands (Northland Fish and Game).</p>	<p>a) The submitter provides no reasons for the request, and nor is it immediately apparent, therefore I'm unable to assess this request.</p> <p>b) I do not consider it necessary to control these matters in constructed wetlands, which are essentially artificial and located where Rule C.3.1 is likely to apply.</p> <p>c) I consider it is necessary to exclude significant wetlands in order to protect identified significant values.</p>	No change.

Provision	Summary of main submission points	Discussion	Recommendation
	<p>d) Refer to Freshwater Fisheries Regulations 1983 (Bay of Islands Maritime Park Inc).</p> <p>e) Delete Rule C.3.2 or it should be restricted discretionary (CEP Services Matauwhi Limited).</p>	<p>d) This request is consistent with the Minister of Conservation request for reference to the regulations. I recommend acknowledging this matter through the addition of an advice note at the beginning of the section.</p> <p>e) I believe this rule provides sufficient protection for in-stream values through limiting the rule to activities that provide benefits and are either temporary or small scale; while providing for fish passage and excluding sites with outstanding or significant values.</p>	
C.3.3	<p>Submitters requested:</p> <p>a) Deletion of Rule C.3.3 or it should be restricted discretionary (CEP Services Matauwhi Limited).</p> <p>b) Deletion of size restrictions i.e. 20,000m² and 4m height (Affco New Zealand).</p> <p>c) That this rule applies to all wetlands, not just 'natural wetlands' (Northland Fish and Game).</p> <p>d) Exclusion of dams in significant and outstanding areas (Royal Forest and Bird Protection Society NZ).</p> <p>e) Exclusion of stock from these dams (Upperton T).</p>	<p>a) I believe this rule provides sufficient protection for in-stream values through limiting the rule to activities that provide benefits and are either temporary or small scale; while providing for fish passage and excluding sites with outstanding or significant values.</p> <p>b) Without limiting dam scale, the potential adverse effects would be less constrained and in my judgement, likely to be more than minor.</p> <p>c) I do not consider it necessary to control these matters in constructed wetlands, which are essentially artificial and located where Rule C.3.1 is likely to apply.</p> <p>d) The dams covered by this rule have been authorised and are not large dams, therefore I consider potential adverse effects minor.</p> <p>e) Stock exclusion provisions apply to artificial and modified watercourses, as well as lakes larger than 1-hectare Rule C.8.1.1. Stock exclusion provisions are considered in S42 Report: <i>Managing the access of livestock access to waterways and the coastal marine area</i>.</p>	No change.
C.3.5	<ul style="list-style-type: none"> • Add a condition to exclude dams in significant ecological areas and 	The dams covered by this rule have previously been authorised. The current operative plan permits existing authorised dams, and this rule represents increased	Amend as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
	<p>outstanding freshwater bodies from this rule, and</p> <ul style="list-style-type: none"> • Add matter for control: 6) <i>effects on instream and riparian indigenous biodiversity</i> <p>(Royal Forest and Bird Protection Society NZ).</p>	<p>regulation to ensure control measures are appropriate. However, I do not consider it is reasonable to exclude dams that where either authorised with or have developed significant ecological or outstanding values. Therefore, I believe setting the activity status at controlled, balances potential adverse effects and the ability to control them.</p> <p>Regarding the second point, I recommend an additional matter of control that includes effects on ecological values within the beds of waterbody's, however does not extend into riparian areas that are outside the bed and managed by land disturbance rules section C.8 Land use and disturbance activities and are considered in S42A report - <i>Earthworks, land preparation, vegetation clearance and bores.</i></p>	
C.3.5	<p>Submitters requested:</p> <ol style="list-style-type: none"> a) That this rule applies to all wetlands, not just 'natural wetlands' (Northland Fish and Game). b) Deletion of the rule [because of requested amendments permitting these dams – Rule C.3.3] (AFFCO New Zealand). c) Amendment so that the rule includes taking of water from the dam (Bay of Islands Planning Limited and Carrington Resort Jade LP). 	<ol style="list-style-type: none"> a) I do not consider it necessary to control these matters in constructed wetlands, which are essentially artificial and located where Rule C.3.1 is likely to apply. b) Without limiting dam scale, the potential adverse effects would be less constrained and in my judgement, likely to be more than minor. c) The water take activity was intentionally omitted from the damming and diversion rules to enable water quantity to be managed by the Proposed Plan in section C.5 - Taking and using water. Please refer to S42A report - <i>Allocation and use of fresh water.</i> 	No change.
C.3.6 River channel diversion - discretionary activity	<p>Submitters requested:</p> <ol style="list-style-type: none"> a) the activity complies with C.2.3 'General conditions', (Heritage NZ), b) Addition of a new condition <u>9) Significant ecological area</u> (Royal Forest and Bird Protection Society NZ). 	<ol style="list-style-type: none"> a) The main trigger for activities falling under this rule is likely to be where they cannot meet general conditions. I believe it is appropriate for activities outside significant and outstanding areas to be discretionary, in recognition of the potential benefits associated with damming and diversion activities 	No change.

Provision	Summary of main submission points	Discussion	Recommendation
		<p>such as ability to provide greater resilience against the effects of climate change.</p> <p>b) Significant ecological areas have not been mapped (refer to Section 42A report: <i>Significant natural and historic heritage</i>). Therefore, I do not recommend referring to these areas.</p>	
C.3.8 Obstructions that divert water onto other property – discretionary activity	Tegel Foods Ltd requested the rule is amended by inserting the words ‘that is not a permitted activity under any other rule’ into the rule.	I do not support the requested amendment because I consider that the proposed rule is sufficiently clear to interpret. This is because it is the only rule in the plan that relates to the placement of obstructions that divert water onto other property – there are no permitted activity rules that could be ‘caught’ by this rule.	No change.
C.3.9	Amendment to clarify ‘significant area’; inclusion of activities in significant ecological areas; and reference to Regional Policy Statement RMS s.6 matters. (Royal Forest and Bird Protection Society NZ).	The rule title is consistent with other rules in the plan when they refer to significant and outstanding areas, therefore I do not recommend amendment. Otherwise, Significant ecological areas have not been mapped (refer to Section 42A report on <i>Significant natural and historic heritage</i>). Therefore, I do not recommend referring to these areas. Regional Policy Statement policies have been recommended to be carried through (with some amendment) into the Proposed Plan and therefore I do not believe it is necessary to refer to the Regional Policy Statement policies.	No change.
New wetland Policy	Northland Fish and Game request a new policy that lists assessment criteria for resource consents that involve wetlands. The submitter then requests amendments to rules referring to the policy.	The requested policy provides a check list of key matters involving wetlands that I agree are all relevant and useful. However, other policies already broadly cover these matters, and assessment criteria have not been provided for other activities in the Proposed Plan. Therefore, for format continuity and to avoid unnecessary	No change.

Provision	Summary of main submission points	Discussion	Recommendation
		duplication, I do not recommend including the requested policy.	
D.4.27 Wetlands – requirements	<p>Submitters requests covered the follow matters:</p> <p>a) To only apply the policy to natural wetlands [i.e. exclude constructed wetlands] (Federated Farmers, First Gas Limited, Fonterra, GBC Winstone, Top Energy)</p> <p>b) Distinguish between freshwater and tidal wetlands [e.g. saltmarsh] (LaBonte' A & R and Mangawhai Harbour Restoration Society Inc.).</p> <p>c) Require biodiversity offsetting of any residual adverse effects on indigenous vegetation and biodiversity values (Minister of Conservation).</p> <p>d) Include additional listed functions and values:</p> <ul style="list-style-type: none"> o food gathering including as a fisheries resource; o for recreation including but not limited to walking, fishing, bird watching, game bird hunting and boating; o for education and scientific research; and o for their amenity and natural character; and o for ecological connectivity linking surrounding habitat. <p>(Northland Fish and Game).</p>	<p>a) Regarding the first point, I agree that this policy should not apply to constructed wetlands, as it would not be reasonable place requirements on someone to maintain a wetland they have created. I also not that part 2) of the policy assumes that it will not always be possible to meet part 1) and therefore, as a consequence I recommend an amendment clarifying this, so that part 1) 'should' be met and part 2) 'must' be met.</p> <p>b) Regarding the second point, I do not consider it is necessary to distinguish between tidal and freshwater wetlands, as the policy only applies where wetland functions and values exist. Therefore, I do not recommend these requested amendments.</p> <p>c) Regarding the third point, I do not recommend requiring offsetting of <u>any residual adverse effects</u>. Rather by highlighting offsetting as an option, further policy direction can be gained by referring to other policy e.g. D.2.8 Managing adverse effects on indigenous biodiversity; and D.2.8 Precautionary approach to managing effects on significant indigenous biodiversity.</p> <p>d) The final point seeking reference a range of addition functions and values, does include wetland values, however I consider that they are either already captured by this or relevant to assessment under other policies. Therefore, I do not recommend amendment as a result of this submission point.</p>	Amend as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
D.4.28 Wetland – values	<p>Submitters requests covered the follow matters:</p> <ul style="list-style-type: none"> a) amendments to recognise and preserve natural character of wetlands, protect wetland ecosystems, consider effects of climate change (CEP Services Matauwhi Limited) cultural values (Far North District Council) the inherent right to life of all creatures living in the wetland (Leonard B) b) recognise the necessity for undertaking works (First Gas Limited) c) limit the policy to natural wetlands (Fonterra, GBC Winstone, Top Energy). d) no change in wetland water levels beyond the water level variation that has been provided for by resource consents (Minister of Conservation). e) Protect the significant values of wetlands and their margins from the inappropriate effects of land and water use. (Northland Fish and Game). f) clarification of the term ‘end state’ in part 3) of the policy. 	<ul style="list-style-type: none"> a) In regard to these matters: <ul style="list-style-type: none"> o Natural character is provided for through separate policy D.2.7 Managing adverse effects on natural character and outstanding natural features (new policy) o Protection of wetland ecosystems is recognised in policy D.4.27. o Consideration of effects of climate change is recognised in New Policy - Climate change and development o Similarly, cultural values are provided for through separate policy. b) I do not recommend the requested change, as I believe recognition of the necessity for undertaking works e.g. the interests of development and infrastructure, are provided through the two-part nature of policy D.4.27. Whereas D.2.28 seeks recognition of the benefits provided by wetlands, and through other policy, e.g. New Policy – Benefits of regionally significant infrastructure; and New Policy- Managing adverse effects arising from regionally significant infrastructure. c) Unlike policy D.4.27, this does not set minimum requirements, and instead seeks recognition of beneficial values, and therefore I consider that it is reasonable for the policy to apply to constructed wetlands. Therefore, I do not recommend the amendments sought. d) I consider that the change in wetland water levels are relevant considerations, but do not need to be specifically referenced in this policy. e) the protection of wetland ecosystems is recognised in policy D.4.27. 	Amend as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
		f) I agree that that use of 'end state' might create confusion, and recommend using 'values' instead.	
D.4.29 Freshwater fish	<p>Submitters requests covered the follow matters:</p> <p>a) Amend to state when adverse effects are to be avoided; recognise nutrient runoff effects on fish and importance of head-water streams, (CEP Services Matauwhi Limited), similarly the Minister of Conservation requests amendment so that a strict protection and avoidance regime applies.</p> <p>b) Limit recognition of spawning habitat, to areas where spawning habitat is limited (Far North District Council) and similarly, do not recognise that most Northland rivers as providing habitat for threatened fish or opportunities to reduce spread or introduction of pests (GBC Winstone).</p> <p>c) Delete 'non' from clause 3) so that pest fish control is not recognised (Leonard B), similarly amendment to part 1) was requested to state Northland freshwater bodies provide habitat for fish species and delete 'non-pest' from part 3) (Northland Fish and Game)</p> <p>d) Amend 2) by changing "that some fish species are sensitive" to "that all fish species have varying degrees of sensitivity". (Royal Forest and Bird Protection Society NZ).</p>	<p>a) I do not believe it is necessary for this policy to apply the strict protection and avoidance regime, as those already apply in the general policies (e.g. D.2.8) and is this case the policy is aiming to highlight key resource consent considerations for activities in freshwater bodies affecting fish.</p> <p>b) I believe these requested changes fail to recognise the importance of spawning habitat, the extent that threatened species are represented in Northlands water bodies and potential risk of pest fish spread and introduction. Therefore, I do not recommend the requested changes.</p> <p>c) I believe it is important to recognise the need to provide for fish passage while considering the potential for benefits of not freeing up pest fish movement.</p> <p>d) I agree that the requested text provides greater consistency with terminology of the Regional Policy Statement. Therefore, I recommend the requested amendment.</p>	Amend as recommended.

Provision	Summary of main submission points	Discussion	Recommendation
D.4.30 Benefits of freshwater structures, dams and diversions	<p>Submitters requests covered the follow matters:</p> <p>a) Delete clause 5 (Leonard B), or delete Policy D.4.30. (CEP Services Matauwhi Limited)</p> <p>b) Replace ‘recognise’ with ‘have regard to’ and include:</p> <ul style="list-style-type: none"> i. regard to regionally significant mineral extraction activities (GBC Winstone) ii. resilience of communities to climate change (Irrigation New Zealand). iii. enhancing recreation opportunities including walking, bird watching, fishing, game bird hunting and boating, or iv. for education and scientific research, or v. for enhancing amenity and natural character. (Northland Fish and Game). <p>c) Include policies to give effect to the RPS and NZCPS. (Royal Forest and Bird Protection Society NZ).</p>	<p>a) I consider that it is important to recognise potential benefits that freshwater structures, dams and diversions can bring, both to individuals and the wider community. This policy provides some balance to other policies that place limitations on adverse effects. Therefore, I do not agree with requests to delete all or part of this policy.</p> <p>b) Along similar line to GBC Winstone’s request, there are a number of industries that could be acknowledged as benefitting from these activities. I do not consider it is necessary expand on the reference in part 1) of the policy to ‘industry’. However, I do believe there is some benefit to recognising the other matters requested, and therefore recommended amendment to include matters ii.) to v.).</p>	Amendment as recommended.
Policy D.6.4: Flood defences	<p>CEP Services Matauwhi Limited requested to amend the policy to state that while there may be short term benefits, in the longer term managed retreat may provide more significant benefits.</p> <p>Bay of Islands Maritime Park Inc requested to add a clause to recognise the significant damage that flood defences can have on wetlands and alluvial plain ecological sequences and their associated natural character.</p>	<p>Neither of the two submitters have demonstrated why their relief sought is appropriate. I am therefore unable to assess the requests without the detail of the specific changes sought. These submitters may wish to provide more detail at the hearing. I however note that this policy specifically focuses on the benefits that flood defences can play in reducing flood hazard risk.</p>	No change

Provision	Summary of main submission points	Discussion	Recommendation
<p>Policy D.6.5: Development within floodplains</p>	<p>GBC Winstone and Top Energy have requested that flood hazard areas are identified on Planning Maps.</p> <p>CEP Services Matauwhi Limited requests to amend the policy to take into account climate change and give consideration to the flood hazard projections for the next 100 years, and the wider costs to society of development in flood hazard areas.</p> <p>The Oil Companies have requested to amend the title of the Policy.</p> <p>Whangarei District Council supports the intent of the policy but notes the policy may have the effect of prohibiting development within these areas.</p>	<p>GBC Winstone and Top Energy's request is addressed in the <i>Re-building of materially damaged or destroyed buildings s42A report</i>.</p> <p>The Oil Companies have not provided any justification for their request and I am therefore unable to assess it.</p> <p>Whangarei District Council has not actually requested any specific amendment to the policy, their submission point is more akin to a comment.</p> <p>CEP Services Matauwhi has not provided any proposed wording nor demonstrated why the existing policy is not appropriate. I therefore am unable to assess this any further.</p>	<p>No change.</p>