

Wellington City Proposed District Plan

Hearing Stream 11

Ecosystems and Indigenous Biodiversity

Section 42A of the Resource Management Act 1991

Document Information

REPORT FOR:

Independent Hearings Commissioners:

Trevor Robinson (Chair)

Miria Pomare

Liz Burge

Lindsay Daysh

SUBJECT:

Wellington City Proposed District Plan

Part 1 - Definitions

Part 2 – District Wide Matters

- i. Natural Environmental Values – Ecosystems and Indigenous Biodiversity (ECO)
- ii. Energy, Infrastructure and Transport - Infrastructure – Ecosystems and Indigenous Biodiversity (INF-ECO)

Part 4 – Appendices, Design Guides and Schedules

- i. Appendix 2 – Biodiversity Offsetting
- ii. Appendix 3 – Biodiversity Compensation
- iii. Appendix 15 – Ecological Assessment
- iv. Schedule 8 – Significant Natural Areas
- v. Schedule 9 – Indigenous Tree Sizes

PREPARED BY:

Adam McCutcheon

REPORT DATED:

12 August 2024

DATE OF HEARING:

9 September 2024

Table of Contents

| | |
|---|-----------|
| Executive Summary | 7 |
| Interpretation | 9 |
| 1.0 Introduction | 11 |
| 1.1 Purpose..... | 11 |
| 1.2 Author and Qualifications..... | 12 |
| 1.3 Code of Conduct..... | 13 |
| 1.4 Supporting Evidence..... | 13 |
| 2.0 Key resource management issues in contention..... | 14 |
| 3.0 Procedural matters..... | 14 |
| 3.1 Hearing scheduling..... | 14 |
| 3.2 Section 32A reports..... | 15 |
| 3.3 Section 32AA evaluations..... | 15 |
| 3.4 Trade competition..... | 16 |
| 4.0 Background | 16 |
| 4.1 Decisions on the Proposed District Plan so far | 16 |
| 4.2 The 'Backyard Taonga' project..... | 17 |
| 4.3 Decisions prior to notification of the Proposed District Plan..... | 18 |
| 5.0 Statutory considerations..... | 20 |
| 5.1 Resource Management Act 1991 | 20 |
| 5.2 National Policy Statement on Indigenous Biodiversity 2023 | 21 |
| 5.3 Plan Change 1 to the Wellington Regional Policy Statement | 31 |
| 5.4 Resource Management (Freshwater and Other Matters) Amendment Bill | 36 |
| 5.5 National Policy Statement on Freshwater Management 2020 and National Environmental Standards for Freshwater 2020 - Amended February 2023..... | 37 |
| 5.6 Natural Resources Plan 2022 (Appeals Version) and Plan Change 1 | 38 |
| 5.7 The Spatial Planning Act and Natural and Built Environment Act | 38 |
| 6.0 Reconciling National and Regional Policy Direction in this Hearing Process | 38 |
| 7.0 Consideration of submissions and further submissions | 57 |

| | | |
|-------------|--|-----------|
| 7.1 | Overview | 57 |
| 7.2 | Report Structure..... | 57 |
| 7.3 | Format for consideration of submissions | 58 |
| 8.0 | Identification of significant natural areas in Wellington City | 58 |
| 8.1 | Introducing significant natural areas protection into the Proposed District Plan | 58 |
| 8.2 | Submissions on specific significant natural areas..... | 68 |
| 9.0 | General Submissions..... | 84 |
| 9.1 | Submission points not specific to the INF-ECO or ECO Chapters | 84 |
| 9.2 | Submissions relating to freshwater | 85 |
| 10.0 | Submissions on definitions | 88 |
| 10.1 | Submissions on notified definitions | 89 |
| 10.2 | New definitions and other amendments to definitions because of the NPS-IB..... | 96 |
| 11.0 | Ecosystems and Indigenous Biodiversity Chapter | 99 |
| 11.1 | General submissions..... | 99 |
| 11.2 | New Provisions | 101 |
| 11.3 | ECO Introduction | 132 |
| 11.4 | ECO-O1: Significant natural areas are protected from inappropriate subdivision, use and development and where appropriate, restored..... | 135 |
| 11.5 | ECO-O2: Significant natural areas within the coastal environment are protected | 137 |
| 11.6 | ECO-O3: Significant natural areas are protected from the adverse effects of plantation forestry activities..... | 139 |
| 11.7 | ECO-O4: Significant natural areas are maintained or restored by mana whenua in accordance with kaitiakitanga..... | 140 |
| 11.8 | ECO-P1: Protection of significant natural areas..... | 141 |
| 11.9 | ECO-P2: Appropriate vegetation removal in significant natural areas..... | 146 |
| 11.10 | ECO-P3: Subdivision, use and development in significant natural areas | 153 |
| 11.11 | ECO-P4: Protection and restoration initiatives..... | 155 |
| 11.12 | ECO-P5: Significant natural areas within the coastal environment | 159 |
| 11.13 | ECO-P6: New plantation forestry | 161 |
| 11.14 | ECO-P7: Existing plantation forestry | 162 |

| | | |
|-------------|---|------------|
| 11.15 | ECO-R1: Trimming, pruning or removal of vegetation within a significant natural area..... | 163 |
| 11.16 | ECO-R2: Removal of non-indigenous vegetation within a significant natural area | 182 |
| 11.17 | ECO-R3: Restoration and maintenance of a significant natural area | 183 |
| 11.18 | ECO-R4: New plantation forestry within a significant natural area | 187 |
| 11.19 | ECO-S1: Trimming, pruning or removal where there is the imminent threat to the safety of people or property..... | 187 |
| 11.20 | ECO-S2: Vegetation removal associated with maintenance or repair of public walking and cycling tracks including parks maintenance and repair | 190 |
| 11.21 | ECO-S3: Vegetation removal associated with farm access tracks..... | 192 |
| 11.22 | ECO-S4: Vegetation removal associated with upgrading of existing and creation of new public walking and cycling tracks and associated buildings and structures..... | 194 |
| 11.23 | Appendix 2 - Biodiversity Offsetting..... | 196 |
| 11.24 | Appendix 3 - Biodiversity Compensation | 202 |
| 11.25 | Appendix 15 - Ecological Assessment..... | 208 |
| 11.26 | Schedule 9 – Indigenous Tree Sizes..... | 211 |
| 12.0 | Infrastructure – Ecosystems and Indigenous Biodiversity Chapter | 214 |
| 12.1 | NPS-IB and the INF-ECO Chapter | 214 |
| 12.2 | General Submissions | 219 |
| 12.3 | New INF-ECO Provisions..... | 220 |
| 12.4 | INF-ECO Introduction | 224 |
| 12.5 | INF-ECO-P33: Operation, maintenance and repair of existing infrastructure within a significant natural area..... | 228 |
| 12.6 | INF-ECO-P34: Upgrades to and new infrastructure within a significant natural area | 230 |
| 12.7 | INF-ECO-R41: Operation, maintenance, repair, and removal of existing infrastructure within a significant natural area | 232 |
| 12.8 | INF-ECO-R42: Upgrades to existing infrastructure within a significant natural area..... | 234 |
| 12.9 | INF-ECO-R43: New infrastructure within a significant natural area | 236 |
| 12.10 | INF-ECO-S19: Trimming or removal of indigenous vegetation or trees within a significant natural area | 237 |
| 12.11 | INF-ECO-S20: Earthworks within a significant natural area | 239 |

| | | |
|-------|---|-----|
| 12.12 | Other matters..... | 242 |
| 13.0 | Alignment with previously determined provisions | 243 |
| 14.0 | Conclusion | 244 |
| 15.0 | Recommendations..... | 245 |
| 16.0 | List of Appendices..... | 246 |

Executive Summary

1. In this report I provide recommendations as to how the Wellington City Proposed District Plan should address the topic of 'ecosystems and indigenous biodiversity'.
2. I make these recommendations considering a complex statutory context of conflicting direction for the Wellington City Council arising from:
 - a. Section 6(c) of the Resource Management Act;
 - b. A highly directive National Policy Statement for Indigenous Biodiversity 2023;
 - c. An RMA Amendment Bill which, if passed, will suspend requirements to protect indigenous vegetation;
 - d. Requirements to create a well-functioning urban environment under the National Policy Statement on Urban Development 2020;
 - e. A very general New Zealand Coastal Policy Statement 2010; and
 - f. Changing directions under the Regional Policy Statement for the Wellington region.
3. In the first instance I provide an overview of the planning context and an analysis of the alignment between the Proposed District Plan and the National Policy Statement for Indigenous Biodiversity 2023 and Regional Policy Statement Change 1.
4. I show how in some areas there is general alignment, but not in others. Considering limited discretion to take local approaches, and implementation at a regional level, I recommend several provisions in the NPS-IB be implemented, while others deferred.
5. I have found that the tensions between urban development and the protection of indigenous biodiversity have been unresolved at a national level, rather unhelpfully. In response I set out a proposed approach to reconciling these competing directives within urban environments.
6. My analysis of submissions and further submissions received in relation to ecosystems and indigenous biodiversity provisions in the Proposed District Plan follows, including general submissions and submissions in relation to:
 - a. Part 1 – Interpretation – Definitions;
 - b. Part 2 - Energy, Infrastructure and Transport - Infrastructure – Ecosystems and Indigenous Biodiversity Chapter;
 - c. Part 2 - Natural Environmental Values – Ecosystems and Indigenous Biodiversity Chapter;
 - d. Part 4 - Appendix 2 (Biodiversity Off-setting);
 - e. Part 4 - Appendix 3 (Biodiversity Compensation);
 - f. Part 4 - Appendix 15 (Ecological Assessment);
 - g. Schedule 8 (Significant Natural Areas); and
 - h. Schedule 9 (Indigenous Tree Sizes).

7. I recommend some significant changes to the notified provisions and additional new provisions to fulfil the requirements of the NPS-IB, reconcile tensions between national direction and respond to submitters.
8. I consider the key resource management issues to be:
 - a. The principle of identifying significant natural areas considering their impacts on property rights;
 - b. How the NPS-IB should be implemented;
 - c. The tightening up of policy and rule frameworks in response to the NPS-IB; and
 - d. How indigenous biodiversity outside of significant natural areas should be managed.
9. I address each of these key issues, as well as other issues raised in the submissions.
10. Appendix A of this report sets out my recommended changes to provisions.
11. For the reasons set out in the Section 32AA evaluations included throughout this report, within the scope of submissions and methodology I have set out to address the implementation of the NPS-IB, the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
 - a. Achieve the purpose of the Resource Management Act 1991 where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
 - b. Achieve the relevant objectives of the Proposed District Plan, in respect to the proposed provisions.

Interpretation

Abbreviations

| Abbreviation | Means |
|--|---|
| the Council | Wellington City Council |
| IHP/Panel | Independent Hearings Panel |
| Higher order planning Documents | |
| The RMA | Resource Management Act 1991 |
| Enabling Act | Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 |
| Amendment Bill | Resource Management (Freshwater and Other Matters) Amendment Bill 2024 |
| NES | National Environmental Standard |
| NPS | National Policy Statement |
| NPS-ET | National Policy Statement on Electricity Transmission 2008 |
| NPS-FM | National Policy Statement for Freshwater Management 2020 |
| NPS-IB | National Policy Statement for Indigenous Biodiversity 2023 |
| NPS-UD | National Policy Statement on Urban Development 2020 |
| NPS-PF / NPS-CF | National Policy Statement for Plantation Forestry 2017 / National Policy Statement for Commercial Forestry (renamed May 2024) |
| NZCPS | New Zealand Coastal Policy Statement 2010 |
| IPI | Intensification Planning Instrument |
| ISPP | Intensification Streamlined Planning Process |
| IHP | Independent Hearings Panel |
| NRP | Wellington Natural Resources Plan 2022 (Appeals Version) |
| RPS | Wellington Regional Policy Statement 2013 |
| RPS-PC1 | Plan Change 1 to the Wellington Regional Policy Statement 2013 |
| S32 | Section 32 of the Resource Management Act 1991 |
| S32AA | Section 32AA of the Resource Management Act 1991 |
| Wellington City Council | |
| 2000 District Plan | Operative Wellington City District Plan (in relation to provisions that have not yet been superseded by the 2024 District Plan) |
| 2024 District Plan | Operative Wellington City District Plan in relation to matters addressed through the Council's decisions on hearing streams 1-5 (14 March 2024) and subsequent decisions from the Minister for RM Amendment (date) (ie the Tranche 1 hearings). |
| DDP | Draft District Plan |
| PDP | Proposed Wellington City District Plan (Tranche 2 Hearings only) |
| APP2 | Appendix 2 – Biodiversity Off-setting |
| APP3 | Appendix 3 – Biodiversity Compensation |
| APP15 | Appendix 15 – Ecological Assessment |
| SCHED8 | Schedule 8 – Significant Natural Areas |
| ECO | Ecosystems and Indigenous Biodiversity chapter |
| INF-ECO | Infrastructure - Ecosystems and Indigenous Biodiversity chapter |
| SNA | Significant Natural Area |
| Spatial Plan | Spatial Plan for Wellington City 2021 |

Abbreviations of Submitters' Names

| Abbreviation | Submission no. | Means |
|---------------------|----------------|---|
| FENZ | 273 | Fire and Emergency New Zealand |
| Forest and Bird | 345 | Royal Forest and Bird Protection Society |
| GWRC | FS84 | Greater Wellington Regional Council |
| Kilmarston | 290 | Kilmarston Developments Limited and Kilmarston Properties Limited |
| Meridian | 228 FS101 | Meridian Energy Limited |
| Taranaki Whānui | 389 | Taranaki Whānui ki te Upoko o te Ika |
| Transpower | 315 | Transpower New Zealand Limited |
| Ngāti Toa Rangatira | 488 | Te Rūnanga o Toa Rangatira |
| Waka Kotahi | 376 FS103 | Waka Kotahi New Zealand Transport Agency |
| WCCERG | 377 FS112 | Wellington City Council Environmental Reference Group |
| WELL | 355 FS27 | Wellington Electricity Lines Limited |
| WIAL | 406 FS36 | Wellington International Airport Limited |

In addition, references to submissions includes further submissions, unless otherwise stated.

1.0 Introduction

1.1 Purpose

1. This report is prepared under section 42A of the Resource Management Act 1991 (the RMA) to:
 - a. Assist the Hearings Panel in their role as Independent Commissioners in making their recommendations on the submissions and further submissions on the Wellington City Proposed District Plan (the PDP); and
 - b. Provide submitters with information on how their submissions have been evaluated and the recommendations made by officers, prior to the hearing.
2. This report considers submissions received by the Council in relation to the following components of the PDP:
 - a. Part 1 – Interpretation – Definitions
 - b. Part 2 – Energy, Infrastructure and Transport – Infrastructure – Ecosystems and Indigenous Biodiversity (INF-ECO)
 - c. Part 2 – Natural Environmental Values – Ecosystems and Indigenous Biodiversity Chapter (ECO)
 - d. Part 4 – Appendix 2 (Biodiversity Off-setting) (APP2)
 - e. Part 4 – Appendix 3 (Biodiversity Compensation) (APP3)
 - f. Part 4 – Appendix 15 (Ecological Assessment) (APP15)
 - g. Part 4 – Schedule 8 (Significant Natural Areas) (SCHED8)
 - h. Part 4 – Schedule 9 (Indigenous Tree Sizes (SCHED9)
3. This report:
 - a. Discusses the statutory context for consideration of District Plan provisions relating to ecosystems and indigenous biodiversity, and infrastructure within these areas, including the National Policy Statement for Indigenous Biodiversity 2023 (the NPS-IB);
 - b. Assesses and makes recommendations on the acceptance or rejection of original and further submissions received following notification of the PDP; and
 - c. Provides recommendations for changes to the PDP provisions and maps based on the assessment and evaluation contained in the report.
4. This report is intended to be read in conjunction with the Section 42A Assessment Report: Part A – Overview, which sets out the statutory context, background information and administrative matters pertaining to the District Plan review and PDP.

5. The Independent Hearings Panel (the IHP) may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.
6. In this report:
 - a. 'Indigenous biodiversity' is used as shorthand for the variably named terms used in submissions such as '*native vegetation*', '*native habitats*', and '*native bush*'; and
 - b. 'Significant natural areas or SNA' is used as shorthand to refer to areas of '*significant* indigenous vegetation and *significant* habitats of indigenous fauna' (emphasis added), that being areas of indigenous biodiversity that meet the identification criteria of the NPS-IB or the Wellington Regional Policy Statement (the RPS).

1.2 Author and Qualifications

7. My full name is Adam Michael McCutcheon.
8. I am a Team Leader in the District Planning Team at Wellington City Council (the Council).
9. My role in preparing this report is that of an expert in planning.
10. I hold the qualifications of Master of Planning with Distinction and Bachelor of Arts (Geography) from the University of Otago.
11. I am an Intermediate Member of the New Zealand Planning Institute and have served for three years as a member of Wellington Branch Committee.
12. I have nine years' experience in planning and resource management.
13. I have had policy roles at the Dunedin City Council, and Ministry for the Environment prior to joining the Wellington City Council. In these roles I have been responsible for the development and implementation of national and local level planning policy and providing advice to Government Ministers and Councillors.
14. I have been involved with the district plan review process since joining the District Planning Team in 2019.
15. I have been involved in the development of the Spatial Plan and Draft District Plan since their initial drafting, participating in engagement and helping refine their proposals.
16. I led Council processes to have the IPI component of the PDP approved and provided advice on amendments.
17. I have led the drafting of new chapters for historic heritage, notable trees, sites and areas of significance to Māori. I drafted the section 32 reports for these topics. I have assisted in the

drafting and peer reviewed several chapters in the plan.

18. I was the reporting officer for:

- a. Hearing stream 1 - strategic direction;
- b. Hearing stream 3 - historic heritage, notable trees, sites and areas of significance to Māori; and
- c. ISPP wrap up hearing stream.

1.3 Code of Conduct

- 19. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court, which came into effect on 1 January 2023. I have complied with the Code of Conduct when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
- 20. Other than when I state that I am relying on the evidence or advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 21. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

1.4 Supporting Evidence

- 22. The expert reports that have informed my section 42A report are set out below. These reports are provided in full at Appendices C to H of my report.

Supporting information on the identification and impacts of Significant Natural Areas

Appendix C

Report prepared by Wildlands Consultants titled '*Comparison between Wellington Regional Policy Statement Criteria and NPS-IB for Assessment of Significant Natural Areas*', project no. 3942j-ii (dated October 2023).

Appendix D

Report prepared by Wildlands Consultants titled '*Audit of Potential Significant Natural Areas of Wellington City: Stage 1 Desktop Analysis*' Desktop Review of Wellington City Council Significant Natural Areas according to NPS-IB 2023 Criteria.

Appendix E

Report prepared by Property Economics titled '*Capacity Impact of Significant Natural Areas*', project no. 52358 (dated March 2024).

Appendix F

Report prepared by GHD titled '*Significant Natural Areas | Section 32 Economic Assessment Indigenous Biodiversity*', project no. 12628338 (dated 24 April 2024).

Appendix G

Report prepared by Wildlands Consultants titled '*The Current and Historic State of Indigenous Biodiversity in Wellington*', project no. 3942L (dated 14 May 2024).

Appendix H

Report prepared by Wildlands Consultants titled '*Vegetation clearance rules for Wellington City*', project no. 3942L-ii (dated 11 July 2024).

Legal submissions and statements of evidence

- a. Nick Whittington, Barrister
- b. David Norman, Chief Economist, GHD
- c. Nick Goldwater, Principal Ecologist, Wildlands

2.0 Key resource management issues in contention

23. Having read the submissions and further submissions, I consider that the following matters are the key issues in contention:
- a. The identification of significant natural areas, including whether these can be identified on privately owned residential zoned land or not;
 - b. How the NPS-IB should be implemented in the District Plan; and
 - c. The suitability of the objectives, policies, rules and standards, appendices and schedule.

3.0 Procedural matters

3.1 Hearing scheduling

24. The chapters addressed in this section 42A report were originally scheduled to be heard during Hearing Stream 8: Natural and Coastal Environment, and Hearing Stream 9: Infrastructure and Risks. There has been some 'juggling' of the hearing dates for related submissions due to consecutive high level Government announcements on legislative and policy changes in relation to indigenous biodiversity. Minutes [38](#) and [40](#) of the IHP effectively put the hearing of these submissions in a holding pattern until the Council provided direction as to its preferred approach to implement the NPS-IB.
25. [Minute 50](#), released on 4 June 2021, confirmed that after reviewing the substance of the Resource Management (Freshwater and Other Matters) Amendment Bill the Council saw no reason why the hearing of submissions on notified provisions should not proceed. That

minute directed submissions on all ECO and INF-ECO provisions be heard within 'Hearing Stream 11' beginning 10 September 2024.

26. [Minute 55](#) provided me an additional week to complete this report, for which I am appreciative.
27. I note that Section 86B(3)(b) of the RMA states that all provisions relating to significant natural areas have immediate legal effect from the date of notification. As such, the SNAs identified at Schedule 8 and rules within the ECO and INF-ECO chapters took immediate legal effect on 18 July 2022.
28. At the time of writing this report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on the ECO or INF-ECO chapters, or associated appendices and schedule.
29. Site visits to eight SNAs have been undertaken by Nick Goldwater and his colleagues to help understand and respond to submitter points. These are documented in his statement of evidence, as well as the body of this report.

3.2 Section 32A reports

30. The following topic-specific Section 32 Reports provide a comprehensive assessment of all relevant consultation and statutory considerations as they stood at the time of public notification of the PDP:

[Section 32 - Part 1 - Context to Evaluation and Strategic Objectives \(wellington.govt.nz\)](#)

[Section 32 - Part 2 - Ecosystems and Indigenous Biodiversity \(wellington.govt.nz\)](#)

[Section 32 - Part 2 - Infrastructure \(wellington.govt.nz\)](#)

3.3 Section 32AA evaluations

31. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and*
- (b) must be undertaken in accordance with section 32(1) to (4); and*
- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
- (d) must—*
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or*
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*

- (2) *To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).*
32. Where necessary, I have undertaken an evaluation in accordance with s32AA of my recommended amendments where they result in a departure from the policy approach of the notified PDP and the s32 evaluation which underpinned it.
33. The section 32AA evaluations are contained in the body of this report. They contain a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made in response to submissions.
34. Recommendations on editorial, minor, and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

3.4 Trade competition

35. Trade competition is not considered relevant to the provisions of the PDP relating to this topic.
36. There are no known trade competition issues raised within the submissions.

4.0 Background

4.1 Decisions on the Proposed District Plan so far

37. As detailed earlier in the Section 42A Overview Report, the Council has chosen to use two plan review processes when it notified the PDP on 18 July 2022:
- a. The Intensification Streamlined Planning Process (the **ISPP**) under Part 6 of Schedule 1 of the RMA for the intensification planning instrument (the **IPi**). There are no appeal rights on ISPP provisions.
 - b. The RMA Part 1, Schedule 1 process is used for all other PDP provisions. These provisions can be appealed.
38. On 14 March 2024 the Council made decisions on the IHP's recommendations on the Tranche 1 hearings. It accepted all recommendations made under the Part 1, Schedule 1 process, and the majority of recommendations under the ISPP.
39. Of these ISPP recommendations, twenty IHP recommendations were rejected and alternatives were referred to the Minister for RMA Reform to make a final decision.
40. On 20 March 2024 the Council issued [public notice of its ISPP decisions](#).
41. On 5 April 2024 the Council issued [public notice of its Part 1, Schedule 1 decisions](#).
42. On 8 May 2024 the Minister announced his decisions on the IHP's recommendations and the alternative recommendations referred to him by the Council. A summary of these decisions can be found at [Decision making and status of provisions - Plans, policies and bylaws -](#)

43. On 24 May 2024 the Council [issued public notice of the Minister's decisions](#).
44. Except for a small number of matters that are subject to appeal, provisions determined as part Tranche 1 decisions are now operative or treated as operative.

4.2 The 'Backyard Taonga' project

45. Pressure on the country's indigenous biodiversity is evident, with recorded removal of more than 70,000 hectares across New Zealand between 1996 and 2012. Between 2012 and 2020 alone, an additional 12,869 hectares has been removed [according to the Department of Conservation](#). Drivers include removal to enable conversion to pasture, plantation forestry and urban growth.
46. The Council established the 'Backyard Tāonga' project in response to these trends, the commitments made by the Council to identify and protect indigenous biodiversity in its 2015 [Our Natural Capital – Biodiversity Strategy and Action Plan](#) and identified deficiencies of the then operative 2000 District Plan to fulfill RMA section 6 and RPS obligations.
47. The project was established as part of the Council's broader 'Planning for Growth programme' with the dual purpose of:
 - a. Raising community awareness about the nature, location and extent of indigenous biodiversity and natural features and landscapes across the city; and
 - b. Supporting pre-consultation with affected landowners on the introduction of new district plan provisions for these matters through the PDP.
48. Background work began as early as 2016 and included:
 - a. A [desktop audit of potentially significant natural areas](#) across Wellington City from Wildlands Ecologists using the criteria of Policy 23 of the RPS; and
 - b. An [economic assessment by Darroch consultants](#) in 2019 of the potential impacts on landowners from the introduction of district plan provisions.
49. The Wildlands audit used the criteria contained in policy 23 of the RPS to identify 177 unique SNAs across the district.
50. In summary, to be classified as a SNA an area of vegetation is required to meet one or more of the following criteria:
 - a. Be a natural ecosystem that is no longer commonplace;
 - b. Have biological or physical features that are scarce or threatened;
 - c. Have diverse ecology, species and physical features;
 - d. Connect ecosystems or habitats for rare indigenous species; or
 - e. Have significance to tangata whenua.

51. In 2019, the Council started a public engagement campaign and directly contacted approximately 1700 landowners whose properties had been assessed as containing part of a SNA identified from the Wildlands audit.
52. All affected owners were sent information sheets detailing the values and location of the likely significant vegetation that had been identified on their property. An accompanying letter was also provided inviting engagement with Council staff to discuss how the identified area had been arrived at, what identification could mean in the eventual PDP and to arrange a site visit with a Wildlands ecologist where values and extents were disputed. An example of this material can be found at Appendix I.
53. The invitation to request a site visit was maintained throughout the Spatial Plan and Draft District Plan (the DDP) processes and was advertised in communications materials for those respective processes.
54. A total of 148 site visits on private property took place between initial outreach and the notification of the PDP.
55. Modifications to 'trim back' or remove the mapped extent of a SNA from a property occurred where a site visit or communication with an owner showed:
 - a. Resource consents or certificates of compliance had been already granted for development necessitating removal of vegetation;
 - b. A lower quality of vegetation or a mixture of exotic and indigenous vegetation was found compared to what was indicated in the desktop audit; or
 - c. Vegetation had been incorrectly identified in the desktop assessment.
56. Records of site visits and modifications made were recorded in the GIS database.
57. Amendments to the mapped extent of SNAs reflecting the findings of site visits were incorporated into the versions of the mapped layer consulted on in the DDP, and eventually in the PDP.

4.3 Decisions prior to notification of the Proposed District Plan

58. On 23 June 2022 the Council's Planning and Environment Committee resolved to publicly notify the Proposed District Plan on 18 July 2022.

Removal of residentially zoned SNAs

59. As part of this [decision](#), the Planning and Environment Committee resolved to:
 - 10A) *Note that significant natural areas on public and rural land are identified and protected in a manner consistent with the requirements of the Resource Management Act 1991, and directive policies 23 and 24 in the Regional Policy Statement (2013).*
 - 10B) *Agree that Significant Natural Areas (SNA)s on residentially zoned properties be removed from the notified District Plan until the National Policy Statement on Biodiversity has been gazetted*

and a SNA incentives programme has been developed and considered by Council.

12) Agree that a 'significant natural areas incentives programme' be considered as part of the 2023/24 Annual Plan, to assist affected landowners with the protection of these ecologically important areas.

60. Therefore, when the PDP was notified, SNAs were not identified on privately owned residential zoned land.
61. Adjustments were made to the PDP maps to reflect this change by 'trimming' the boundaries of the 177 unique SNAs so that they did not extend onto privately owned residentially zoned sites. In this way no 'whole/contiguous' SNAs were removed from the notified plan, rather their boundaries were modified.
62. The associated schedule, 'SCHED9 - Urban environment allotments' which identified urban allotments <4000m² and described vegetation present was also removed.
63. A viewer that shows the extent of SNAs inclusive and exclusive of privately owned residential land can be found at: [Wellington City Significant Natural Areas Dashboard \(arcgis.com\)](https://arcgis.com)
64. A total of 5239 hectares of SNA was identified in the notified PDP (approximately the area of the Sky Stadium turf 3281 times over). This equates to approximately 18% of the total land area in Wellington City and affects approximately private 400 landowners.
65. The area of SNA that was 'trimmed out' (ie that would otherwise have extended onto privately owned residentially zoned land) constitutes 181 hectares and some 1300 private landowners.
66. Graphs demonstrating these relationships are provided below as extracted from Dr Norman's evidence:

Figure 1 Land included in SNAs, by zoning and ownership

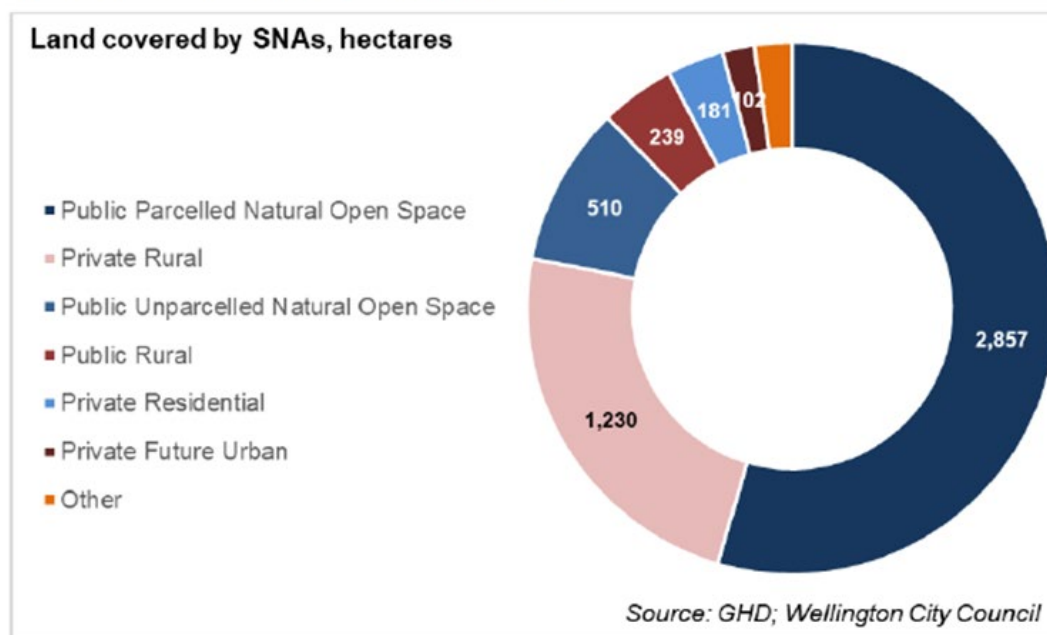
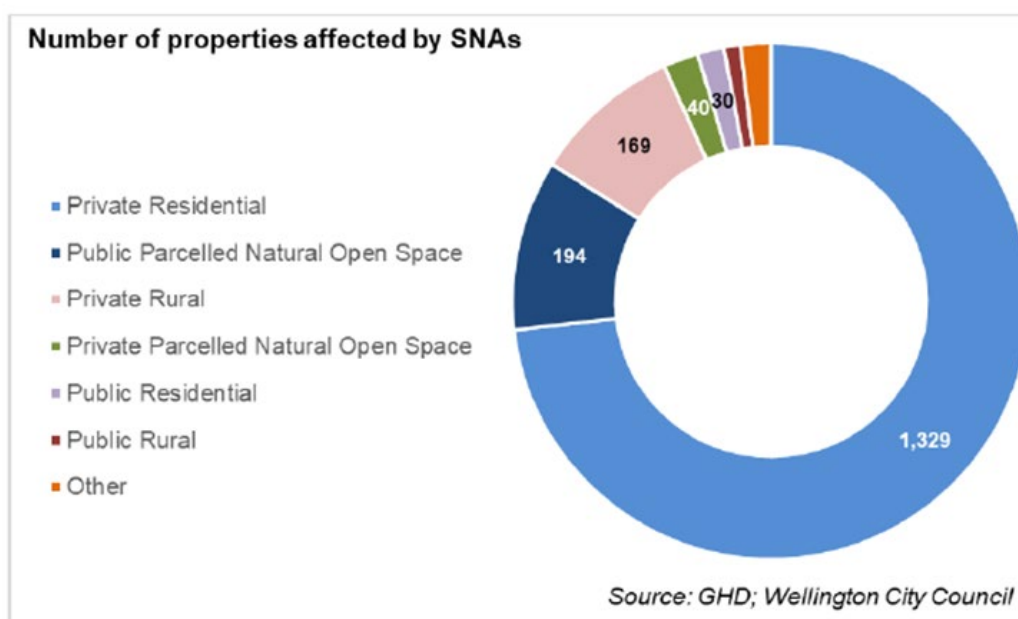


Figure 2 Affected properties by zoning and ownership



SNAs as a Qualifying Matter

67. Given that SNAs were not identified in the notified PDP on relevant residential or centres zones they are not considered nor assessed as 'qualifying matters' for the purpose of the implementation of the MDRS/policy 3 of the NPS-UD. Accordingly, under the PDP, the removal of vegetation that would otherwise meet the NPS-IB/RPS criteria to be identified as a SNA is a permitted activity, including for the purpose of constructing up to three household units (MDRS) on a residential site.
68. If the IHP are of the mind to include SNAs on residentially zoned properties through this hearing process, my advice would be that SNAs would not subsequently function as a qualifying matter as these do not 'modify a density standard', but rather are used to meet the obligation for territorial authorities under section 6 of the RMA to protect areas of significant indigenous biodiversity.
69. Regardless of whether SNAs are considered a qualifying matter or not, I acknowledge that the inclusion of a SNA on a residentially zoned site and the requirement to obtain resource consent to remove vegetation will, for a significant number of sites, curtail the ability to use the permitted activity rule and standards of the MDRS to construct up to three residential units.
70. To foreshadow, I do not recommend that SNAs are identified on residential land.

5.0 Statutory considerations

5.1 Resource Management Act 1991

71. The PDP has been prepared in accordance with the RMA, in particular the requirements of:

- a. Section 74 Matters - to be considered by territorial authority; and
 - b. Section 75 - Contents of district plans.
72. As set out in Section 32 Evaluation Report Part 1 – Context to Evaluation and Strategic Objectives, there are several higher order planning documents and strategic plans that provide direction and guidance regarding the preparation and content of the PDP.
73. Specifically in relation to this topic the Ecosystems and Indigenous Biodiversity Section 32 Report provides a comprehensive assessment of all relevant consultation and statutory considerations prior to public notification of the PDP.
74. Here I identify changes to relevant statutory considerations since notification of the PDP.

5.2 National Policy Statement on Indigenous Biodiversity 2023

75. A draft NPS-IB had been released at the time the ECO and INF-ECO chapters were being drafted for the DDP and PDP.
76. It was not until 7 July 2023 that a [final NPS-IB](#) was released, essentially a full year after notification of the PDP. Accordingly, the Council did not benefit from being able to incorporate the final policy direction of the NPS-IB into the notified PDP.
77. The extent to which the final NPS-IB should be implemented in this hearings process by modifying the notified PDP provisions accordingly is now a key issue for me, and in turn, the IHP to consider.

Intent and content of the NPS-IB

78. The NPS-IB has one objective, summarised as ‘the maintenance of indigenous biodiversity so that there is at least no overall net loss post commencement’. I have copied the objective below (**emphasis added**):

The objective of this National Policy Statement is:

- (a) **to maintain indigenous biodiversity** across Aotearoa New Zealand so that there is **at least no overall loss in indigenous biodiversity** after the commencement date; and
- (b) *to achieve this:*
 - (i) **through recognising the mana of tangata whenua as kaitiaki** of indigenous biodiversity; and
 - (ii) **by recognising people and communities, including landowners, as stewards** of indigenous biodiversity; and
 - (iii) **by protecting and restoring indigenous biodiversity** as necessary to achieve the overall maintenance of indigenous biodiversity; and
 - (iv) **while providing for the social, economic and cultural wellbeing** of people and communities now and in the future.

79. Seventeen policies provide direction on how this objective is to be achieved. The policies are wide ranging and include direction to:

- a. Manage biodiversity taking into account the principles of the Treaty of Waitangi;

- b. Take a precautionary approach when considering adverse effects on indigenous biodiversity;
 - c. Local authorities to identify SNAs in their planning documents and avoid or manage adverse effects from new subdivision, use and development; and
 - d. Promote and provide for the restoration of indigenous biodiversity.
- 80. Three subparts specify requirements for:
 - a. Approaches to implementation (Subpart 1);
 - b. Significant Natural Areas (Subpart 2); and
 - c. Specific requirements, including for Māori land, identified taonga and highly mobile fauna (Subpart 3).
- 81. A set of 'decision-making principles' are included. These must be followed in the implementation of the NPS, requiring that local authorities engage with tangata whenua, recognise the mauri and intrinsic value of indigenous biodiversity and people's connections and relationships with indigenous biodiversity.
- 82. An extensive set of detailed definitions is included.
- 83. Implementation timeframes are specified requiring that local authorities must:
 - a. Give effect to the NPS "as soon as reasonably practicable" (clause 4.1);
 - b. Publicly notify plan changes to give effect to other provisions within eight years (ie 2031) (clause 4.2); and
 - c. Publicly notify plan changes to identify and protect SNAs within five years (ie 2031) (clause 4.3).
- 84. The six appendices of the NPS-IB relate to:
 - a. Criteria for identifying areas that qualify as SNAs (Appendix 1);
 - b. Specified highly mobile fauna (Appendix 2);
 - c. Principles for biodiversity offsetting (Appendix 3);
 - d. Principles for biodiversity compensation (Appendix 4); and
 - e. Regional biodiversity strategies (Appendix 5).
- 85. Nothing in the NPS-IB applies to:
 - a. The development, maintenance, operation, maintenance or upgrade of renewable electricity generation assets and activities; and
 - b. Electricity transmission network assets and activities (1.3(3)).

Differences between the NPS-IB and the notified ECO chapter

86. As noted above, the NPS-IB was not finalised until after notification of the PDP. As such the drafting of the notified PDP provisions only considered the policy direction of the Exposure Draft NPS-IB.
87. Unsurprisingly, there are many areas where the PDP provisions are not fully aligned with the gazetted NPS-IB.
88. These inconsistencies can be summarised as the PDP:
 - a. Being focused on the protection of *significant* biodiversity, rather than the maintenance of biodiversity generally;
 - b. Being more enabling of modifying SNAs for activities that do not have a need to locate within a SNA (eg do not have a functional or operational need);
 - c. Not containing the required avoidance framework for effects on SNAs;
 - d. Omitting provisions to protect indigenous biodiversity outside of identified SNAs; and
 - e. Not containing carve-outs for national grid electricity transmission infrastructure.
89. Table 1 below contains an assessment of the NPS-IB against the ECO chapter.

| Table 1 – Comparison between NPS-IB and notified Ecosystems and Indigenous Biodiversity Chapter | | |
|---|--|---|
| NPS-IB Objective/Policy | NPS-IB Part 3 — Implementation Clause | How aligned are the ECO provisions and why? |
| <p>(1) The objective of this National Policy Statement is:</p> <p>(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and</p> <p>(b) to achieve this:</p> <p>(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and</p> <p>(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and</p> <p>(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and</p> <p>(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.</p> | | <p>Partially aligned.</p> <p>The chapter does not focus on indigenous biodiversity outside of SNAs at all.</p> <p>The chapter does not contain a ‘no net loss’ objective (Objective one of the NPS-IB)</p> <p>The relevant objectives are:</p> <p>ECO-01 – protection ECO-02 – coastal SNAs ECO-03 – plantation forestry ECO-04 – maintenance and restoration by mana whenua.</p> <p>Otherwise, the notified objectives generally give effect to the intent of the NPS-IB and in relation to SNAs in the coastal environment, the NZCPS.</p> |
| <p>Policy 1 Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi.</p> | <p>Clause 3.2: Role of decision-making principles</p> | <p>Partially aligned.</p> <p>There is no reference or policy direction relating to the decision-making principles of the NPS-IB in the ECO chapter.</p> <p>While this is likely not required (instead the principles used to develop provisions that implement them), the option is available.</p> <p>Otherwise, the chapter takes a ‘passive’ approach to mana whenua involvement.</p> <p>There are strategic objectives in the Anga Whakamua (AW) chapter and Natural Environment (NE) chapter (NE-01, NE-02) that are well aligned with this policy</p> |

| | | |
|--|---|--|
| Policy 2: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe. | Clause 3.3: Tangata whenua as partners | Partially aligned. See box above. |
| | Clause 3.18: Māori lands | Not aligned. There are no provisions in the chapter that address specified Māori land. There are provisions that enable customary harvesting but are much more limited in scope than the intent of clause 3.18. |
| | Clause 3.19: Identified taonga | Partially aligned. Criteria (e) in policy 23 of the RPS (identify significant biodiversity values) relates to mana whenua/tangata whenua values as <i>“the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to mana whenua/tangata whenua, identified in accordance with tikanga Māori”</i> and has been used to help identify SNAs in the notified schedules. The identified taonga clause in the NPS-IB is broader than that used to identify SNAs in the PDP and would also likely identify ecosystems and species that are taonga. |
| Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity | Clause 3.7: Precautionary approach | Partially aligned. Policy 2 – ‘The effects management hierarchy’ forms part of the precautionary approach but is not specifically addressed at policy level or embedded as a key consideration for decision makers when determining effects of activities on indigenous biodiversity. |

| | | |
|---|--|--|
| Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change | Clause 3.6: Resilience to climate change | <p>Not aligned.</p> <p>There is no specific direction in the ECO chapter to take climate change resilience into consideration.</p> <p>The strategic direction <i>Sustainability, Resilience and Climate Change</i> and <i>Natural Environment</i> chapters includes strategic objectives recognising how the built environment can support ecosystems and the interconnectedness of ecosystems,</p> |
| Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries. | Clause 3.4: Integrated approach | <p>Not aligned.</p> <p>There is nothing in the ECO chapter regarding integration across administrative boundaries. Implementing this policy requires further direction from Regional Council (in part through RPS-PC1).</p> <p>Note that the <i>Cross boundary matters</i> chapter identifies issues that span administrative boundaries.</p> |
| Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach. | <p>Clause 3.8: Assessing areas that qualify as significant natural areas</p> <p>Clause 3.9: Identifying SNAs in district plans</p> | <p>Partially aligned.</p> <p>The SNAs in Schedule 8 have been identified using the identification criteria in policy 23 of the RPS. This is very consistent with the criteria set out in the NPSIB.</p> <p>SNAs in Wellington city have not been identified on residentially zoned private land.</p> |
| Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development. | Clause 3.10: Managing adverse effects on SNAs of new subdivision, use, and development | <p>Partially aligned.</p> <p>The NPS-IB can be summarised as stricter than the notified ECO chapter. The NPS introduces a strict</p> |

| | | |
|---|---|---|
| | Clause 3.11: Exceptions to clause 3.10(2) | <p>avoidance framework for a wide range of effects on SNAs and only allows an effects management hierarchy approach for specific activities or other effects that have not been identified as needing to be avoided.</p> <p>On the other hand, the approach of the notified ECO chapter is to allow the effects management hierarchy to all activities in the first instance. The notified ECO chapter allows for new uses to use the effects management hierarchy, which is not enabled under the NPS.</p> <p>The approach of clause 3.10 and 3.11 also applies to subdivision and earthworks. The relevant policies in that chapter require review.</p> |
| Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for | Clause 3.16: Indigenous biodiversity outside SNAs | <p>Not aligned.</p> <p>The PDP does not include any specific policy direction on how indigenous biodiversity outside SNAs is to be managed as directed by clause 3.16(1) and 3.16(2) in the NPS-IB.</p> <p>This clause is presently being managed through resource consent processes through an informal approach where over 50m² of indigenous vegetation is proposed to be removed by requiring ecological assessments where discretion allows.</p> |
| Policy 9: Certain established activities are provided for within and outside SNAs. | <p>Clause 3.15: Managing adverse effects of established activities affecting SNAs</p> <p>Clause 3.17: Maintenance of improved pasture</p> | <p>Partially aligned.</p> <p>The PDP specifies permitted activities within SNAs some of which are subject to standards for clearance to a set width or amount of vegetation removal. These are in effect 'established activities'. However it does not purport to restrict an increase in the scale and intensity of established activities The notified ECO chapter allows for new uses to use the effects management hierarchy, which is not enabled under the NPS.</p> <p>The PDP does not have provisions that allow for the maintenance of improved pasture.</p> |
| Policy 10: Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement. | Clause 3.5: Social, economic, and cultural wellbeing | <p>Partially aligned.</p> <p>The direction in clause 3.5 relating to partnership with tangata whenua, the exercise of kaitiakitanga by tangata whenua, role of landowners as stewards etc is somewhat addressed through ECO-O4.</p> <p>These provisions of the NPS are more relevant to the plan making process.</p> |

| | | |
|--|--|--|
| Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any preexisting underlying geothermal system classification. | Clause 3.13: Geothermal SNAs | Not relevant to Wellington City Council. |
| Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities. | Clause 3.14: Plantation forestry activities | Largely aligned. ECO-O3: Significant natural areas are protected from the adverse effects of plantation forestry activities. ECO-P6 - New plantation forestry: Avoid the establishment of new plantation forestry within identified significant natural areas. |
| Policy 13: Restoration of indigenous biodiversity is promoted and provided for. | Clause 3.21: Restoration | Largely aligned. The PDP includes strong policy direction relating to restoration in ECO-O1 and ECO-P4. It makes restoration a permitted activity. |
| Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments | Clause 3.22: Increasing indigenous vegetation cover | Not aligned. The ECO chapter does not address this. Initial technical work needs to be completed by the Regional Council to inform territorial authorities. However, outside of the District Plan Council has other non-statutory strategies and methods, such as the 'Our Natural Capital Biodiversity Strategy' which address matters such as this. |
| Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved. | Clause 3.20: Specified highly mobile fauna | Not aligned. The ECO chapter does not address this. Technical work needs to be completed by the Regional Council to inform territorial authorities and the mapping and provisions within district plans. |

| | | |
|--|---|--|
| Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale. | Clause 3.23: Regional biodiversity strategies Clause 4.3: Timing for regional biodiversity strategies Appendix 5: Regional biodiversity strategies | Regional Council Function. |
| Policy 17: There is improved information and regular monitoring of indigenous biodiversity | Clause 3.24: Information requirements | Largely aligned. Appendix 15 sets out requirements for ecological assessments that is mostly consistent with the provisions set out in clause 3.24(2). |
| Appendix 1: Criteria for identifying areas that qualify as significant natural areas (SNAs) | | Largely aligned. The four ecological attributes in the RPS are almost identical to the four ecological attributes outlined in Appendix 1 of the NPS-IB. In terms of differences, the second and third attributes 'Diversity' and 'Rarity' in the RPS are respectively titled 'Diversity and Pattern', and 'Rarity and Distinctiveness' in the NPS-IB. |
| Appendix 2: Specified highly mobile fauna | | Not aligned. The ECO chapter does not address this. Initial technical work needs to be completed by the Regional Council to inform territorial authorities. This will help determine if this is a District Plan function. |
| Appendix 3: Principles for biodiversity offsetting | | Largely aligned. Appendix 2 sets out requirements for biodiversity offsetting. There are concepts in the NPS appendix that are not specifically covered in the PDP equivalent eg 'leakage'. |
| Appendix 4: Principles for biodiversity compensation | | Largely aligned. Appendix 3 sets out requirements for biodiversity compensation. There are concepts in the NPS appendix that are not specifically covered in the PDP equivalent eg 'leakage'. |

| | |
|--|-----------------------------------|
| Appendix 5: Regional biodiversity strategies | Regional Council Function. |
| Appendix 6: Glossary of ecological terms used in Appendices | Interpretation content. |

5.3 Plan Change 1 to the Wellington Regional Policy Statement

90. The 2013 operative RPS has required councils to identify and protect significant indigenous biodiversity through Policies 23 (identification) and 24 (protection).
91. Proposed Change 1 to the RPS (RPS-PC1) was notified on 19 August 2022 with the stated purpose of implementing the NPS-UD and NPS-FM.
92. Policies 23 and 24 were amended through RPS-PC1 to include the 30 June 2025 deadlines for them to be actioned and the latter to also include direction for councils to include biodiversity offsetting and compensation regimes.
93. An additional policy (*Policy IE.1: Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – district and regional plan*) was also included at notification.
94. Hearings on RPS-PC1 have been completed, with indigenous biodiversity matters heard in Hearing Stream 6 in February 2024.
95. At the time of writing this report, GWRC has not released its decisions on RPS-PC1. I understand that the GWRC hearings panel has delivered its recommendations to staff and that decisions by its Council may be taken later this month (August 2024).
96. The implications of this are that if decisions are made by the Regional Council on the topic while the hearings process on the PDP SNA provisions is underway, greater weight needs to be afforded to those RPS provisions. I note that some decisions could also be appealed.
97. The reporting officer for RPS-PC1 hearing stream 6 was in a very similar situation to myself and the panel now in determining how to give effect to the NPS-IB through an in-train hearing process. This formed one of the key matters of prehearing conferencing and contestation at the hearing.
98. The reporting officer took the view (paras 87-107 of [the section 42A report](#)) that NPS-IB provisions that are highly directive and provide limited discretion in how they are to be implemented should be given effect to through the hearing process. On the other hand, those that require further engagement and technical work should not.
99. The reporting officer arrived at this view after discounting an option to defer implementation of the NPS-IB to another plan change process, as was sought by some submitters.
100. Considering scope, the reporting officer subsequently took the view that there were few issues given that there had been no significant changes in the policy intent between the NPS-IB exposure draft and the gazetted NPS-IB, and that a number of submission points sought alignment with the NPS-IB if it were to be gazetted prior to decisions on submissions.
101. Appendix 3 to the reporting officer's section 42A report contains a table showing the alignment of the notified RPS-PC1 with the NPS-IB and which provisions of the NPS-IB were

recommended to be implemented through the hearings process. This is available here: [RPS-PC1 reporting officer assessment against NPS-IB.](#)

102. For the panel's ease I have summarized the reporting officer's recommendations to implement the provisions of the NPS-IB at Table 2 below.

Table 2 – GWRC Reporting Officer recommended approach to implementing the NPS-IB through RPS-PC1

| NPS-IB Objective | |
|---|--|
| <p>(1) The objective of this National Policy Statement is:</p> <ol style="list-style-type: none"> <u>1.</u> to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and <u>2.</u> to achieve this: <ol style="list-style-type: none"> (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future. <p>Give effect to</p> <p><i>Objectives 16,16A,16B,16C</i></p> | |
| NPS-IB Policy | NPS-IB Part 3 — Implementation Clause |
| <p>Policy 1 Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi.</p> <p>Give effect to in part</p> <p><i>Replace Te Rito o te Harakeke</i></p> | <p>Clause 3.2: Role of decision-making principles</p> <p>Defer</p> |
| <p>Policy 2: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe.</p> <p>Give effect to in part</p> <p><i>Objective 16B, Policy IE.1, Policy IE.2, Methods IE.1, IE.3, and IE.4</i></p> | <p>Clause 3.3: Tangata whenua as partners</p> <p>Give effect to in part</p> <p><i>Objective 16B, Policy IE.1, Policy IE.2, Methods IE.1, IE.3 and IE.4</i></p> |
| | <p>Clause 3.18: Māori lands</p> <p>Give effect to in part</p> <p><i>Policy IE.1, Policy IE.3</i></p> |
| | <p>Clause 3.19: Identified taonga</p> <p>Give effect to in part</p> <p><i>Policy IE.1</i></p> |

| | |
|---|---|
| <p>Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity Give effect to in part</p> <p><i>Policy 47(h)</i></p> | <p>Clause 3.7: Precautionary approach Give effect to in part</p> <p><i>Policy 47(h)</i></p> |
| <p>Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change Give effect to</p> <p><i>Objective 16A, Policy IE.3</i></p> | <p>Clause 3.6: Resilience to climate change Give effect to (Policy IE.3)</p> <p><i>Objective 16A, Policy IE.3 Various climate change policies</i></p> |
| <p>Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries. Already gives effect to</p> <p><i>Objective A, Policy IM.1 and Method IM.1</i></p> | <p>Clause 3.4: Integrated approach Already gives effect to</p> <p><i>Objective A, Policy IM.1 and Method IM.1</i></p> |
| <p>Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach. Give effect to</p> <p><i>Policy 23</i></p> | <p>Clause 3.8: Assessing areas that qualify as significant natural areas Give effect to</p> <p><i>Policy 23, Method 21 and Method 32</i></p> <p>Clause 3.9: Identifying SNAs in district plans District plan matter</p> |
| <p>Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development. Give effect to in part</p> <p><i>Policy 24, Policy 24A, Appendix 1</i></p> | <p>Clause 3.10: Managing adverse effects on SNAs of new subdivision, use, and development Give effect to in part</p> <p><i>Policy 24, Policy 24A, Appendix 1</i></p> |
| | <p>Clause 3.11: Exceptions to clause 3.10(2) Give effect to in part</p> <p><i>Policy 24, Policy 24A, Appendix 1</i></p> |
| <p>Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for Give effect to</p> <p><i>Policy IE.2A</i></p> | <p>Clause 3.16: Indigenous biodiversity outside SNAs Give effect to</p> <p><i>Policy IE.2A</i></p> |

| | |
|--|--|
| <p>Policy 9: Certain established activities are provided for within and outside SNAs. Give effect to</p> <p><i>Policy 47</i></p> | <p>Clause 3.15: Managing adverse effects of established activities affecting SNAs Give effect to</p> <p><i>Policy 47</i></p> <p>Clause 3.17: Maintenance of improved pasture Give effect to</p> <p><i>no change needed</i></p> |
| <p>Policy 10: Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement. Give effect to in part</p> <p><i>Objective 16B, Objective 16C, Policy IE.2, Policy IE.4</i></p> | <p>Clause 3.5: Social, economic, and cultural wellbeing Give effect to in part</p> <p><i>Objective 16B, Objective 16C, Policy IE.2, Policy IE.4</i></p> |
| <p>Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any preexisting underlying geothermal system classification. Defer</p> | <p>Clause 3.13: Geothermal SNAs Defer</p> |
| <p>Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities. Give effect to</p> <p><i>Policy 47</i></p> | <p>Clause 3.14: Plantation forestry activities Give effect to</p> <p><i>Policy 47</i></p> |
| <p>Policy 13: Restoration of indigenous biodiversity is promoted and provided for. Give effect to</p> <p><i>Objective 16A, Policy IE.3, Policy IE.4, Method CC.6, Method 53 and Method 54.</i></p> | <p>Clause 3.21: Restoration Give effect to</p> <p><i>Objective 16A, Policy IE.3, Policy IE.4, Method CC.6, Method 53 and Method 54.</i></p> |
| <p>Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments Defer</p> | <p>Clause 3.22: Increasing indigenous vegetation cover Defer</p> |
| <p>Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved. Defer</p> | <p>Clause 3.20: Specified highly mobile fauna Defer</p> |

| | |
|--|---|
| <p>Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale.</p> <p>Give effect to</p> <p><i>Method IE.3</i></p> | <p>Clause 3.23: Regional biodiversity strategies</p> <p>Give effect to</p> <p><i>Method IE.3</i></p> <p>Clause 4.3: Timing for regional biodiversity strategies</p> <p>Give effect to</p> <p><i>Method IE.3</i></p> <p>Appendix 5: Regional biodiversity strategies</p> <p>Give effect to</p> <p><i>Method IE.3</i></p> |
| <p>Policy 17: There is improved information and regular monitoring of indigenous biodiversity</p> | <p>Clause 3.24: Information requirements</p> <p>Regional/District plan matter</p> <p>Clause 3.25: Monitoring by regional councils</p> <p>Regional/District plan matter</p> |
| <p>Appendix 1: Criteria for identifying areas that qualify as significant natural areas (SNAs)</p> <p>Give effect to</p> <p><i>Align with criteria</i></p> | |
| <p>Appendix 2: Specified highly mobile fauna</p> <p>Defer</p> | |
| <p>Appendix 3: Principles for biodiversity offsetting</p> <p>Give effect to</p> <p><i>Align with principles</i></p> | |
| <p>Appendix 4: Principles for biodiversity compensation</p> <p>Give effect to</p> <p><i>Align with principles</i></p> | |
| <p>Appendix 5: Regional biodiversity strategies</p> <p>Give effect to</p> | |
| <p>Appendix 6: Glossary of ecological terms used in Appendices</p> | |

103. A link to the final recommended provisions of the reporting officer from hearing stream 6 for the RPS-PC1 can be found here: [RPS-PC1 Hearing Stream 6 - Reporting Officer Right of Reply](#).

5.4 Resource Management (Freshwater and Other Matters) Amendment Bill

104. [The Resource Management \(Freshwater and Other Matters\) Amendment Bill](#) (the Amendment Bill) was introduced on 23 May 2024. Submissions on the Amendment Bill closed on 30 June 2024.
105. The Government has indicated that the Amendment Bill will become law by the end of 2024.

106. The effect that the Amendment Bill would have on the requirements for councils to identify and protect indigenous biodiversity in district plans is a little puzzling.
107. In this section I explain factually the content of the Amendment Bill, while its implications are dealt with more fulsomely in the following section alongside consideration of RPS-PC1 and the NPS-IB.

Explanation of Amendment Bill content

108. Upon commencement, the Amendment Bill would suspend for three years the requirements for councils to:
- a. Use the NPS-IB assessment criteria to identify and notify new SNAs;
 - b. Notify any plan change to give effect to the provisions about SNAs (subpart 2 of Part 3 of the NPS-IB); and
 - c. Give effect to the NPS-IB as soon as reasonably practicable.
109. Clause 21 would add a new s 78 to the RMA, of which subsection (5) appears to function as a moratorium on SNAs by stating that:
- “However, an area of significant indigenous vegetation or significant habitat of indigenous fauna that, after commencement, is included in a policy statement, proposed policy statement, plan, proposed plan, or change is not to be treated as a SNA regardless of how it is described in that document”.*
110. Clause 3.16 of the NPS-IB (indigenous biodiversity outside SNAs) remains unchanged and the timeframe requirements at Clause 4 continue to apply to this clause.
111. Proposed section 78(6), to be inserted by the Amendment Bill states that the amendments proposed to suspend requirements do not apply to SNAs that are included in an operative or proposed plan before commencement. This is the case with the PDP.
112. The interpretation notes for the Amendment Bill state that:
- “it does not affect councils’ existing obligations under the RMA for indigenous biodiversity, which includes the requirement to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna”.*
113. In this way it purports to leave open the opportunity for Councils to identify indigenous biodiversity and protect it through plan rules under their section 6 and/or any RPS obligations.

5.5 National Policy Statement on Freshwater Management 2020 and National Environmental Standards for Freshwater 2020 - Amended February 2023

114. I note that as heard in Hearing Stream 8 for the Natural Character topic, there are no natural lakes within the Wellington City Council boundaries.

115. Amendments were made to these pieces of national direction effective February 2023. Of peripheral relevance to the PDP were amendments made to the definition of *'natural inland wetland'*.
116. While natural inland wetlands have been or are potentially located within SNAs identified in the PDP, they are solely addressed by the National Environmental Standards for Freshwater (2020) in relation to earthworks in proximity of wetlands or modification.

5.6 Natural Resources Plan 2022 (Appeals Version) and Plan Change 1

117. The Natural Resources Plan 2022 (Appeals Version) (the NRP) came into effect on 28 July 2023, with Plan Change 1 subsequently notified on 30 October 2023.
118. This plan change proposes amendments related to earthworks, stormwater and wastewater discharges, and rural land use to achieve water quality and ecological health objectives with the stated purpose of implementing changes to the NPS-FM.
119. The submission and further submission periods have closed with hearings expected to commence in early 2025.
120. In my opinion, these proposed changes are not directly relevant to the matters addressed in this report.

5.7 The Spatial Planning Act and Natural and Built Environment Act

121. These Acts were repealed on 23 December 2023 and have no further relevance.

6.0 Reconciling National and Regional Policy Direction in this Hearing Process

122. In this section of the report I:
- a. Present my analysis of the collective impacts of the introduction of the NPS-IB, officer recommendations on RPS-PC1 and the proposals of the Amendment Bill;
 - b. Set out my rationale to recommend that certain clauses of the NPS-IB be given effect to through this hearings process, and conversely;
 - c. Set out my rationale to recommend that certain clauses of the NPS-IB should be implemented by way of a future plan change; and
 - d. Highlight the tensions between the NPS-IB as it is proposed to be implemented through the District Plan with the objectives of the National Policy Statement for Urban Development 2020 (the NPS-UD) and consider how these tensions can potentially be resolved.
123. This rationale forms the framework for how I will subsequently weigh and consider submissions in this report and recommended changes to provisions.

124. I note that commentary with respect to alignment between the NPS-IB and the provisions in the INF-ECO chapter is provided at section 11 of this report.

The Amendment Bill would curtail the identification of significant natural areas on residentially zoned land under the NPS-IB

125. As noted earlier, the Amendment Bill would suspend for three years the requirements for councils to:
- a. Use the NPS-IB assessment criteria to identify and notify new SNAs;
 - b. Notify any plan change to give effect to the provisions about SNAs (subpart 2 of Part 3 of the NPS-IB); and
 - c. Give effect to NPS-IB requirements to identify and protect SNAs as soon as reasonably practicable.
126. In respect of bullet points (a) - (c) above, the Council has already notified a PDP identifying SNAs using criteria which are considered consistent with that of the NPS-IB. It has also included provisions to manage effects on them. Given this, suspension of these requirements is not consequential for the notified ECO chapter. Further, the notified SNAs *do not* fall foul of clause 78(5) which removes the ability for SNAs to be identified in a plan under the NPS-IB post commencement of the Amendment Bill.
127. This clause would have relevance in relation to submissions seeking that SNAs be identified on residential land. The most straightforward way to achieve this would be 'extending' the mapping of notified SNAs back over residential zoned land which had been 'trimmed back' at notification of the PDP. Legal advice is that it would be possible to newly identify these areas in the plan, but if this occurs after the Amendment Bill is passed and enters into force, any extended areas could not be *treated as SNAs and subject to rules purporting to give effect to the NPS-IB* as these residential extensions *would* be covered by clause 78(5).
128. The Amendment Bill does not propose to suspend requirements for councils to give effect to 'other' provisions of the NPS-IB.
129. In addition, the Amendment Bill specifically states in Clause 78(4) that it does not affect any function or requirement under other provisions of this Act relating to indigenous biological diversity, including in relation to areas of significant indigenous vegetation or significant habitats of indigenous fauna.
130. The Amendment Bill would not affect for instance, the Council's requirement to give effect to *Clause 3.16 (indigenous biodiversity outside SNAs)* as soon as reasonably practicable. This is one clause which notably remains unchanged by the Amendment Bill.
131. It would also not affect the Council's ability to identify and protect new or additional SNAs under its RPS directives or s6 obligations. It would be through this avenue which extensions to notified SNAs to include residential zoned land would need to be progressed.
132. Boiling this all down, if the Amendment Bill were to commence later this year in its current

form it would have little effect on the management of SNAs already notified in the plan. It would however prevent any extensions of the notified SNAs over residential zoned land being treated as SNAs if passed before this happens as these extensions would fall foul of clause 78(5).

133. My view is that the Amendment Bill would however have an impact for those councils who have not yet identified SNAs in their district plans and may have been considering doing so. Under the Amendment Bill, they would be curtailed from doing so (at least under the directives of the NPS-IB) post commencement.
134. Until such time as the Amendment Bill is enacted into law, neither I nor the IHP can take steps to implement any proposed amendments, or those that may be made through the Select Committee process.
135. Until such time that the outcome is clear the NPS-IB continues to apply.

Principles for aligning with the NPS-IB and RPS-PC1 during this hearing

136. My view is that the notified PDP provisions should be amended to give effect to the NPS-IB as much as possible given that:
 - a. The notified PDP contains SNAs which the NPS-IB applies to, and their status as SNAs is not affected by the proposed suspensions in the Amendment Bill;
 - b. The requirement to give effect to all other provisions of the NPS-IB as soon as reasonably practicable are in force and are not proposed to be suspended; and
 - c. The Greater Wellington reporting officer in the RPS-PC1 process has made detailed recommendations to align the RPS with the NPS-IB.
137. My recommended approach to reconciling the NPS-IB in this hearing process is generally consistent with that taken by the Greater Wellington reporting officer for RPS-PC1, in that NPS-IB provisions should be given effect to where:
 - a. There is limited discretion in how the provision should be implemented because of its directive nature; or
 - b. The provision has been recommended to be given effect to in RPS-PC1 and there is sufficient information or direction to implement it through the District Plan.
138. Conversely, I do not recommend reconciling the NPS-IB in this hearing process where new District Plan provisions or substantial amendments to notified provisions would be needed which require:
 - a. Partnering with mana whenua/tangata whenua;
 - b. Engaging with communities and landowners; or
 - c. Further technical work.

- 139. Instead, I recommended that further work be undertaken and a future plan change be developed to implement these provisions of the NPS-IB.
- 140. I note that there are risks that RPS-PC1 provisions purporting to implement the NPS-IB could be appealed.
- 141. Despite this, in my view it is efficient and appropriate to attempt to align the PDP provisions with those recommended in RPS-PC1, and that the risks of not aligning and being inconsistent are therefore greater.
- 142. In any case, given that the Council would need to undertake a future plan change to implement the remaining provisions of the NPS-IB, this would also be an opportunity to revisit the alignment between the RPS-PC1 and the District Plan in light of any appeals.

Submission scope and the ability to amend provisions to implement the NPS-IB

- 143. My view is that the changes that I subsequently recommend to implement NPS-IB provisions are supported by both submission scope and RMA requirements to give effect to national direction.
- 144. On submission scope, the Director-General of Conservation [385], GWRC [351] and Forest and Bird [345] all submitted that PDP provisions be aligned with variously identified 'exposure draft', 'draft' or '(eventually) final' gazette NPS-IB.
- 145. These submissions were made when the NPS-IB was in draft form and lodged prior to the gazettal of the NPS-IB. Therefore, those submitters could not have known what would be in the final NPS-IB. However, I generally agree with the reporting officer in RPS-PC1 that there were no significant changes in the policy intent between the NPS-IB exposure draft and the gazetted NPS-IB.
- 146. Notably there were some nuances in respect of the draft equivalent of clauses 3.10, 3.11 and 3.16, but in general the thrust of a restrictive NPS-IB was there. To some extent the approach of the notified ECO chapter where the effects management hierarchy could be used outright and a more lenient 'only allow' policy in ECO-P3 were inconsistent with the draft NPS.
- 147. Relatedly, several submissions seek amendments to plan provisions to increase their stringency or to make them more restrictive (consistent with the directives of the NPS-IB), noting that these submitters were not necessarily reliant on the NPS-IB for the basis of their relief.
- 148. Accordingly, I do not consider that submitters would be disadvantaged or otherwise caught by surprise that amendments could be made to align with the final NPS-IB through this hearing process.
- 149. In terms of RMA requirements, under s75(3) a district plan must give effect to both a national policy statement and an RPS. In my view, despite the PDP being notified before finalisation

of the NPS-IB, it is clear that the plan resulting from this hearing process is required to give effect to it.

Application of the New Zealand Coastal Policy Statement

150. Clause 1.4 of the NPS-IB states that where there is a conflict between the NPS-IB and the New Zealand Coastal Policy Statement (the NZCPS), the NZCPS prevails. Both the NZCPS and NPS-IB require an avoidance framework; however, these differ. As such, PDP provisions applying to SNAs within the coastal environment have been drafted to align with policy 11(a) and 11(b) of the NZCPS rather than clause 3.10 of the NPS-IB.

Recommended implementation of the NPS-IB during this hearing process

151. I have outlined in the section above my rationale for reconciling the NPS-IB in this hearing process.
152. Table 3 below accordingly contains my recommendations for which provisions of the NPS-IB should be given effect to now and where in this report I recommend changes be made to provisions to do so. It also brings together the content of the two tables in section 5.2 and 5.3 of this report showing the alignment of the PDP with the NPS-IB and the reporting officer's approach for RPS-PC1.

Table 3 – Recommended approach to implementing the NPS-IB through Hearing Stream 11

| NPS-IB Objective/Policy | NPS-IB Part 3 — Implementation Clause | How aligned are the ECO provisions and which are relevant? | RPS-PC1 recommended approach | Hearing Stream 11 hearing recommended approach | Reasoning and relevant report reference |
|--|---------------------------------------|---|------------------------------|--|--|
| <p>The objective of this National Policy Statement is:</p> <ul style="list-style-type: none"> a. to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and b. to achieve this: <ul style="list-style-type: none"> i. through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and ii. by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and iii. by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and iv. while providing for the social, economic, and cultural wellbeing of people and communities now and in the future. | | <p>Partially aligned.</p> <p>The chapter does not focus on indigenous biodiversity outside of SNAs at all.</p> <p>The chapter does not contain a ‘no net loss’ objective (Objective one of the NPS-IB)</p> <p>The relevant objectives are:</p> <p>ECO-O1 – protection ECO-O2 – coastal SNAs ECO-O3 – plantation forestry ECO-O4 – maintenance and restoration by mana whenua.</p> <p>Otherwise, the notified objectives generally give effect to the intent of the NPS-IB and in relation to SNAs in the coastal environment, the NZCPS.</p> | Give effect to | Give effect to in part | <p>As the overarching objective for implementation of subsequent policies, my view is that it is important that it be given effect to as much as possible through this hearing process.</p> <p>To give effect in part to the objective I recommend:</p> <ul style="list-style-type: none"> i. Amendments to the chapter introduction (section 11.3) ii. A new objective to promote maintaining indigenous biodiversity overall so there is no overall loss (section 11.2). <p>I note that notified ECO-O4 does not fully recognize the intent of the NPS-IB that mana whenua are not passive in undertaking restoration when suits, and rather are recognised as kaitiaki.</p> <p>For this component of the objective there has not been sufficient time to work genuinely and collaboratively with mana whenua on how this should be implemented through the district plan. I therefore recommend that a future plan change process be followed to give effect to this.</p> |

| | | | | | |
|---|--|---|---|---|--|
| <p>Policy 1 Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi.</p> | <p>Clause 3.2: Role of decision-making principles</p> | <p>Partially aligned.</p> <p>There is no reference or policy direction relating to the decision-making principles of the NPS-IB in the ECO chapter.</p> <p>While this is likely not required (instead the principles used to develop provisions that implement them), the option is available.</p> <p>Otherwise, the chapter takes a ‘passive’ approach to mana whenua involvement.</p> <p>There are strategic objectives in the Anga Whakamua (AW) chapter and Natural Environment (NE) chapter (NE-O1, NE-O2) that are well aligned with this policy</p> | <p>Policy 1 Give effect to in part</p> <p>Clause 3.2 Defer</p> | <p>Policy 1 Defer</p> <p>Clause 3.2 Defer</p> | <p>I do not recommend giving effect to these provisions through this hearing process.</p> <p>There has not been sufficient time to work genuinely and collaboratively with mana whenua as to how these policies and clauses should be implemented on the district plan.</p> <p>Instead, I recommend that a future plan change process be followed to give effect to these provisions taking into account the Principles of the Treaty of Waitangi.</p> <p>Delaying the implementation of this part of the NPS-IB will provide for the development of a more robust partnership and planning framework, without the time pressure of having to achieve this before the PDP hearing.</p> <p>Following direction from Council in its Tranche 1 decisions, Council officers are in the preliminary stages of a ‘Te Ao Māori Plan Change’, which will address matters such as provisions for papakāinga and the requirements of the NPS-IB.</p> |
| <p>Policy 2: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe.</p> | <p>Clause 3.3: Tangata whenua as partners</p> | <p>Partially aligned.</p> <p>See box above.</p> | <p>Policy 2 Give effect to in part</p> <p>Clause 3.3 Give effect to in part</p> | <p>Policy 2 Defer</p> <p>Clause 3.3 Defer</p> | <p>As above.</p> |

| | | | | | |
|--|--|---|-------------------------------|-------------------------------|------------------|
| | <p>Clause 3.18: Māori lands</p> | <p>Not aligned.</p> <p>There are no provisions in the chapter that address specified Māori land.</p> <p>There are provisions that enable customary harvesting but are much more limited in scope than the intent of CI3.18.</p> | <p>Give effect to in part</p> | <p>Defer</p> | <p>As above.</p> |
| | <p>Clause 3.19: Identified taonga</p> | <p>Partially aligned.</p> <p>Criteria (e) in Policy 23 of the RPS (identify significant biodiversity values) relates to mana whenua/tangata whenua values as <i>“the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to mana whenua/tangata whenua, identified in accordance with tikanga Māori”</i> and has been used to help identify SNAs in the notified schedules.</p> <p>The identified taonga clause in the NPS-IB is broader than that used to identify SNAs in the PDP and would also likely identify ecosystems and species that are taonga.</p> | <p>Give effect to in part</p> | <p>Give effect to in part</p> | <p>As above.</p> |

| | | | | | |
|--|---|--|--|--|---|
| Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity | Clause 3.7: Precautionary approach | Partially aligned. Policy 2 – ‘The effects management hierarchy’ forms part of the precautionary approach but is not specifically addressed at policy level or embedded as a key consideration for decision makers when determining effects of activities on indigenous biodiversity. | Policy 3 Give effect to in part Clause 3.7 Give effect to in part | Policy 3 Give effect to Clause 3.7 Give effect to | There is limited discretion in how these provisions should be implemented because of their directive nature. To give effect to these provisions I recommend: i. A new policy to incorporate directing decision makers to take a precautionary approach (section 11.2). |
| Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change | Clause 3.6: Resilience to climate change | Not aligned There is no specific direction in the ECO chapter to take climate change resilience into consideration. The strategic direction <i>Sustainability, Resilience and Climate Change</i> and <i>Natural Environment</i> chapters includes strategic objectives recognising how the built environment can support ecosystems and the interconnectedness of ecosystems. | Policy 4 Give effect to Clause 3.6 Give effect to | Policy 4 Give effect to Clause 3.6 Give effect to | These provisions have been recommended to be given effect to through the RPS-PC1 process. To give effect to these provisions I recommend: i. Including non-statutory method to work with the Greater Wellington Regional Council, mana whenua and other stakeholders to identify opportunities to promote the resilience of indigenous biodiversity to climate change (section 11.11). |
| Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries. | Clause 3.4: Integrated approach | Not aligned There is nothing in the ECO chapter regarding integration across administrative boundaries. Implementing this policy requires further direction from Regional Council (in part through RPS-PC1). Note that the <i>Cross boundary matters</i> chapter identifies issues that span administrative boundaries. | Policy 5 Already gives effect to Clause 3.4 Already gives effect to | Policy 5 Defer Clause 3.4 Defer | I do not recommend reconciling the PDP with these provisions in this hearing process because further technical work is required. I consider that addressing these provisions would require consultation and agreement with other Territorial Authorities in the Region, particularly Porirua City Council and Lower Hutt City Council. I therefore recommend that giving effect to this Policy is deferred to a later plan change. |

| | | | | | |
|--|--|--|---|---|---|
| <p>Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach.</p> | <p>Clause 3.8: Assessing areas that qualify as significant natural areas</p> <p>Clause 3.9: Identifying SNAs in district plans</p> | <p>Partially aligned</p> <p>The SNAs in Schedule 8 have been identified using the identification criteria in policy 23 of the RPS. This is very consistent with the criteria set out in the NPSIB.</p> <p>SNAs in Wellington city have not been identified on residentially zoned private land.</p> | <p>Policy 6 Give effect to</p> <p>Clause 3.8 Give effect to</p> <p>Clause 3.9 District Plan matter</p> | <p>Policy 6 Give effect to</p> <p>Clause 3.8 Give effect to</p> <p>Clause 3.9 Give effect to in part</p> | <p>These provisions have been given effect to through the RPS-PC1 process and form the basis of SNA assessment and identification in the District Plan.</p> <p>I recommend that clause 3.8 and policy 6 the 'identification provisions' are given effect to in this process by:</p> <ul style="list-style-type: none"> i. Aligning the criteria used to assess SNAs with that of the NPS-IB. These criteria are highly directive and leave little room for interpretation. (section 8). ii. Introducing a new policy regarding the identification of SNAs (section 11.2) <p>Considering clause 3.9 I recommend that this provision be given partial effect to in this hearing process. As subsequently detailed, I do not recommend that all areas of significant indigenous biodiversity in the district that meet the identification criteria of the NPS-IB be identified spatially in the PDP as SNAs (ie privately owned residentially zoned land).</p> |
|--|--|--|---|---|---|

| | | | | | |
|---|--|--|--|--|--|
| <p>Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.</p> | <p>Clause 3.10: Managing adverse effects on SNAs of new subdivision, use, and development</p> <p>Clause 3.11: Exceptions to clause 3.10(2)</p> | <p>Partially aligned</p> <p>The NPS-IB can be summarised as stricter. It introduces an avoidance framework for a wide range of effects on SNAs and only allows an effects management hierarchy approach for specific activities or other effects that have not been identified as needing to be avoided.</p> <p>(see table 1 for more detail)</p> | <p>Policy 7 Give effect to in part</p> <p>Clause 3.10 Give effect to in part</p> <p>Clause 3.11 Give effect to in part</p> | <p>Policy 7 Give effect to</p> <p>Clause 3.10 Give effect to</p> <p>Clause 3.11 Give effect to</p> | <p>There is limited discretion in how these provisions should be implemented because of their directive nature.</p> <p>Given this I recommend that they are given effect to in this hearing process by:</p> <ul style="list-style-type: none"> i. Introducing a new avoidance policy with wording from clause 3.10 (section 11.2). ii. Introducing a policy with wording from clause 3.11 (section 11.2). iii. Realigning the effects management hierarchy policy of ECO-P1 (section 11.8) iv. Deleting a more lenient policy for activities within SNAs (section 11.10) |
|---|--|--|--|--|--|

| | | | | | |
|---|---|---|--|--|---|
| <p>Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for</p> | <p>Clause 3.16: Indigenous biodiversity outside SNAs</p> | <p>Not Aligned</p> <p>PDP does not include any specific policy direction on how indigenous biodiversity outside SNAs is to be managed as directed by Clause 3.16(1) and (2) in the NPS-IB.</p> <p>This clause is presently being managed through resource consent processes where over 50m² indigenous vegetation is removed by requiring ecological assessments where discretion allows.</p> | <p>Policy 8 Give effect to</p> <p>Clause 3.16 Give effect to</p> | <p>Policy 8 Give effect to</p> <p>Clause 3.16 Give effect to</p> | <p>These provisions are presently being considered on a case-by-case basis when a resource consent is being applied for and rule discretion enables consideration of design/vegetation removal.</p> <p>This approach is not user friendly as only once a resource consent is applied for are applicants aware of restrictions on vegetation clearance. In addition, no comprehensive reconciliation of the NPS-IB and NPS-UD has taken place.</p> <p>In my view is it more efficient and effective to include plan rules to this effect.</p> <p>Accordingly, I recommend that:</p> <ul style="list-style-type: none"> i. A new objective to reconcile the NPS-IB and NPS-UB be introduced (section 11.2). ii. A new policy to manage vegetation clearance outside SNAs be introduced (section 11.2). iii. A new rule to manage vegetation clearance outside SNAs be introduced (section 11.2). |
|---|---|---|--|--|---|

| | | | | | |
|--|---|---|--|---|---|
| <p>Policy 9: Certain established activities are provided for within and outside SNAs.</p> | <p>Clause 3.15: Managing adverse effects of established activities affecting SNAs</p> <p>Clause 3.17: Maintenance of improved pasture</p> | <p>Partially aligned.</p> <p>The PDP specifies permitted activities within SNAs some of which are subject to standards for clearance to a set width or amount of vegetation removal. These are in effect 'established activities' The notified ECO chapter allows for new uses to use the effects management hierarchy, which is not enabled under the NPS.</p> <p>The PDP does not have provisions that allow for the maintenance of improved pasture.</p> | <p>Policy 9 Give effect to</p> <p>Clause 3.15 Give effect to</p> <p>Clause 3.17 Give effect to</p> | <p>Policy 9 Give effect to</p> <p>Clause 3.15 Give effect to</p> <p>Clause 3.17 Defer</p> | <p>There is limited discretion in how policy 9 and clause 3.15 should be implemented because of their directive nature.</p> <p>Given this I recommend that they are given effect to in this hearing process by:</p> <p>i. Amending the permitted activities in ECO-R1 so that generally no new activities can take place (section 11.15)</p> <p>In respect of clause 3.17 there is less concern about improved pasture in Wellington City as there are no strong agricultural practices occurring within the district so can be deferred.</p> |
| <p>Policy 10: Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.</p> | <p>Clause 3.5: Social, economic, and cultural wellbeing</p> | <p>Partially Aligned</p> <p>The direction in Clause 3.5 relating to partnership with tangata whenua, the exercise of kaitiakitanga by tangata whenua, role of landowners as stewards etc. is already addressed to a large extent</p> <p>The main gaps in relation to Policy 10 and Clause 3.5 in the NPSIB relate to the direction:</p> <ul style="list-style-type: none"> • To provide for activities that contribute to wellbeing. • That protecting indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms. | <p>Policy 10 Give effect to in part</p> <p>Clause 3.5 Give effect to in part</p> | <p>Policy 10 Give effect to in part</p> <p>Clause 3.5 Give effect to in part</p> | <p>Giving effect to policy 10 is achieved through recognition of specific activities in clause 3.11 that are recognised as contributing to New Zealand's social, economic, cultural, and environmental wellbeing and is part of the plan making process.</p> <p>Clause 3.11 is being given effect to in this hearing process.</p> <p>In respect of the considerations of clause 3.5, further work to be undertaken with mana whenua in a future plan change will more fulsomely address requirements of clause 3.5(1)(c).</p> |

| | | | | | |
|--|---|--|--|--|---|
| Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any preexisting underlying geothermal system classification. | Clause 3.13: Geothermal SNAs | Not relevant to WCC | Policy 11 Defer Clause 3.13 Defer | Policy 11 Not relevant Clause 3.13 Not relevant | The district has no geothermal SNAs and the provisions are not relevant. |
| Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities. | Clause 3.14: Plantation forestry activities | Largely aligned ECO-O3: Significant Natural Areas are protected from the adverse effects of plantation forestry activities. ECO-P6 - New plantation forestry: Avoid the establishment of new plantation forestry within identified significant natural areas. | Policy 12 Give effect to Clause 3.14 Give effect to | Policy 12 Give effect to Clause 3.14 Give effect to | The notified plan is largely aligned with these provisions of the NPS-IB. |
| Policy 13: Restoration of indigenous biodiversity is promoted and provided for. | Clause 3.21: Restoration | Largely aligned PDP includes policy direction relating to restoration including ECO-O1 and ECO-P4 and makes restoration a permitted activity. | Policy 13 Give effect to Clause 3.21 Give effect to | Policy 13 Give effect to Clause 3.21 Give effect to | The notified plan is largely aligned with these provisions of the NPS-IB. I recommend that these provisions are further given effect to by: i. Including a method to identify those areas for priority restoration (section 11.11). |

| | | | | | |
|--|--|--|---|---|---|
| Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments | Clause 3.22: Increasing indigenous vegetation cover | <p>Not aligned</p> <p>The ECO chapter does not address this. Initial technical work needs to be completed by the Regional Council to inform territorial authorities.</p> <p>However, outside of the District Plan Council has other non-statutory strategies and methods, such as the 'Our Natural Capital Biodiversity Strategy' which address matters such as this.</p> | <p>Policy 14 Defer</p> <p>Clause 3.22 Defer</p> | <p>Policy 14 Defer</p> <p>Clause 3.22 Defer</p> | <p>I do not recommend reconciling the PDP with these provisions in this hearing process because further technical work is required.</p> <p>Instead, I recommend that work to be undertaken with the Regional Council to determine if a future plan change process is necessary.</p> |
| Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved. | Clause 3.20: Specified highly mobile fauna | <p>Not aligned</p> <p>The ECO chapter does not address this. Initial technical work needs to be completed by the Regional Council to inform territorial authorities.</p> <p>However, outside of the District Plan Council has other non-statutory strategies and methods, such as the 'Our Natural Capital Biodiversity Strategy' which address matters such as this.</p> | <p>Policy 15 Defer</p> <p>Clause 3.20 Defer</p> | <p>Policy 15 Defer</p> <p>Clause 3.20 Defer</p> | <p>I do not recommend reconciling the PDP with these provisions in this hearing process because further technical work is required.</p> <p>Instead, I recommend that work to be undertaken with the Regional Council to determine if a future plan change process is necessary.</p> |

| | | | | | |
|--|--|---|--|---|--|
| Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale. | Clause 3.23: Regional biodiversity strategies Clause 4.3: Timing for regional biodiversity strategies | Regional Council Function | Policy 16 Give effect to Clause 3.23 Give effect to Clause 4.3 Give effect to | Policy 16 Not a PDP matter Clause 3.23 Not relevant Not a PDP matter Clause 4.3 Not relevant Not a PDP matter | This is a Regional Council function. |
| Policy 17: There is improved information and regular monitoring of indigenous biodiversity | Clause 3.24: Information requirements | Largely aligned Appendix 15 sets out requirements for ecological assessments that is mostly consistent with the provisions set out in clause 3.24(2). | Policy 17 Clause 3.24 Regional/ District Plan matter Clause 3.25 Not an RPS matter | Policy 17 Not a PDP matter Clause 3.24 Give effect to Clause 3.25 Not a PDP matter | There is limited discretion in how clause 3.24 should be implemented because of its directive nature. Given this I recommend that the clause is given effect to in this hearing process by: i. Amending Appendix 15 (Ecological Assessment) to include the requirements of clause 3.24 (section 11.25) |

| | | | | |
|--|--|-----------------------|-----------------------|---|
| Appendix 1: Criteria for identifying areas that qualify as significant natural areas (SNAs) | <p>Largely aligned</p> <p>The four ecological attributes between the RPS and NPS-IB are almost identical to the four ecological attributes outlined in Appendix 1 of the NPS-IB.</p> <p>The second and third attributes 'Diversity' and 'Rarity' are respectively titled 'Diversity and Pattern', and 'Rarity and Distinctiveness' in the NPS-IB.</p> | Give effect to | Give effect to | <p>There is limited discretion in how the criteria in Appendix 1 should be used to identify SNAs because of its directive nature.</p> <p>Given this I recommend that the clause is given effect to in this hearing process by:</p> <ul style="list-style-type: none"> i. Aligning the criteria used to assess SNAs with that of the NPS-IB. These criteria are highly directive and leave little room for interpretation. (section 8). |
| Appendix 2: Specified highly mobile fauna | <p>Not aligned</p> <p>The ECO chapter does not address this. Initial technical work needs to be completed by the Regional Council to inform TAs</p> | Defer | Defer | <p>I do not recommend reconciling the PDP with these provisions in this hearing process because further technical work is required.</p> <p>Instead, I recommend that work to be undertaken with the Regional Council to determine if a future plan change process is necessary.</p> |
| Appendix 3: Principles for biodiversity offsetting | <p>Largely aligned</p> <p>Appendix 2 sets out requirements for biodiversity offsetting. There are concepts in the NPS appendix that are not specifically covered in the PDP equivalent eg 'leakage'.</p> | Give effect to | Give effect to | <p>There is limited discretion in how the biodiversity offsetting principles in Appendix 3 should be applied because of their directive nature.</p> <p>Given this I recommend that the Appendix is given effect to in this hearing process by:</p> <ul style="list-style-type: none"> i. Amending Appendix 2 in the PDP to copy the requirements of Appendix 3 of the NPS-IB (section 11.23). |

| | | | | |
|--|--|-------------------------------|-------------------------------|---|
| Appendix 4: Principles for biodiversity compensation | Largely aligned Appendix 3 sets out requirements for biodiversity compensation. There are concepts in the NPS appendix that are not specifically covered in the PDP equivalent eg 'leakage'. | Give effect to | Give effect to | <p>There is limited discretion in how the biodiversity compensation principles in Appendix 4 should be applied because of their directive nature.</p> <p>Given this I recommend that the Appendix is given effect to in this hearing process by:</p> <p>i. Amending Appendix 3 in the PDP to copy the requirements of Appendix 4 of the NPS-IB (section 11.24).</p> |
| Appendix 5: Regional biodiversity strategies | Regional Council Function | Give effect to | Not a PDP matter | Regional Council function |
| Appendix 6: Glossary of ecological terms used in Appendices | Interpretation content | Interpretation content | Interpretation content | |

Reconciling the NPS-IB with the NPS-UD and RMA Part 2 Matters

153. Giving effect to the NPS-IB does not mean that other resource management matters can be ignored. In broad terms, to achieve the purpose of the RMA, the Plan must recognise the need to maintain indigenous biodiversity in urban areas in a way that assists in achieving the overall purpose of the Act.
154. Section 5 outlines that the purpose of the RMA is to '*promote the sustainable management of natural and physical resources*'. Sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, that enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety. The maintenance of indigenous biodiversity in urban areas therefore needs to be considered within the context of the overall purpose of the RMA.
155. National policy statements assist territorial authorities give effect to the overall purpose of the RMA, and section 75(3) requires district plans to give effect to national policy statements. Where one or more NPSs apply to a district or area, as is the case with Wellington City's urban areas, it can result in tension between competing objectives. This tension is clear when the objectives of the NPS-IB and the NPS-UD are considered and assessed.
156. The NPS-IB therefore cannot be considered in isolation and must be considered alongside the national significance of urban development as codified through the NPS-UD, and as implemented through the WCC IPI process and recently made operative District Plan provisions.
157. The overarching purpose of the NPS-UD as set out in Objective 1 is the achievement of '*well functioning urban environments*'. This concept is further articulated through Policy 1 which directs that '*Planning decisions contribute to well-functioning urban environments*', with six subsequent policy arms providing specific direction on the various outcomes expected of urban environments.
158. More specifically, policies 3(a) - 3(d) of the NPS-UD are highly directive in terms of enabling urban development in Tier 1 urban environments such as Wellington City. There is a presumption in favour of urban development in urban zones in accordance with policy 3 unless a 'Qualifying Matter' applies that provides for the modification of a density standard. The maintenance of indigenous biodiversity outside of SNAs was not identified as a qualifying matter in urban zones through Council's IPI process. The provisions of the ECO chapter relating to the maintenance of indigenous biodiversity outside of SNAs in urban areas therefore needs to be carefully considered against this presumption in favour of urban development.
159. Policy 6 is also directive in its language with respect to 'planning decisions' that affect urban environments (which includes decisions on the provisions of the ECO chapter subject of this s42A report). It states, '*When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters: (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National*

Policy Statement.... This is instructive and provides a lens through which decisions on the ECO Chapter should be made, given that the newly operative parts of the District Plan (including urban zones) have given effect to the NPS-UD.

160. For context, it should also be noted that urban environments make up a very small amount of the overall land area of New Zealand ([approximately one percent](#) (*Our Land – MfE – pg13*)), and as such it is a scarce physical resource. This is important context, given that the NPS-IB applies to most of the land area of New Zealand, and has the potential to have a disproportionate and disabling effect on urban development within existing urban areas if the NPS-IB objective *‘to maintain indigenous biodiversity across Aotearoa New Zealand’* is applied in an unfettered manner.

7.0 Consideration of submissions and further submissions

7.1 Overview

161. As detailed at Table 4 below, a total of 719 submission points were received on the chapters addressed in this section 42A report.

| Table 4 - Submissions | | | |
|--------------------------------------|----------------------------|---------------------------|-------|
| Chapter | Original submission points | Further submission points | Total |
| ECO chapter, mapping and definitions | 274 | 131 | 405 |
| INF-ECO | 86 | 51 | 137 |
| APP2 - Biodiversity Offsetting | 16 | 9 | 25 |
| APP3 - Biodiversity Compensation | 14 | 7 | 21 |
| APP15 – Ecological Assessment | 3 | - | 3 |
| SCHED8 – Significant Natural Areas | 97 | 25 | 122 |
| SCHED9 – Indigenous Tree Sizes | 2 | 1 | 3 |
| Support for entire submission | - | 3 | 3 |

7.2 Report Structure

162. In accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the following evaluation on both an issues and provisions-based approach, as opposed to a submission-by-submission approach.
163. This evaluation discusses the issues generally and may not contain specific recommendations on each submission point. This approach is consistent with Clause 10(2)(a) of Schedule 1 to the RMA.

164. Recommended amendments to provisions are provided at Appendix A.
165. Specific recommendations on each submission and further submission points are contained in Appendix B.
166. The following evaluation should be read in conjunction with the NPS-IB, the summaries of submissions and further submissions, and the submissions themselves.
167. This report only addresses definitions that are specific to this topic. Definitions that relate to more than one topic have been addressed in Hearing Stream 1 and the associated section 42A report, and in the ISPP Wrap-Up Hearing. Unless subject to appeal, all definitions heard in the Tranche 1 Hearings are now operative.

7.3 Format for consideration of submissions

168. Submissions have been summarised in groups within this report.
169. I have considered substantive commentary on primary submissions contained in further submissions as part of my consideration of the primary submissions to which they relate.
170. The consideration of submissions has generally been undertaken in the following format:
- a. Assessment of alignment with the NPS-IB;
 - b. Matters raised by submitters;
 - c. Assessment and recommendations on submission points; then
 - d. Summary of recommendations.
171. I have assessed submissions relating to the identification of SNAs on specific sites in a table and I have only included the table in the assessment section to avoid duplication.

8.0 Identification of significant natural areas in Wellington City

172. This section considers submissions which were lodged on Schedule 8 – Significant Natural Areas, on the planning maps in respect of SNAs, or on the general merits of vegetation protection. There was a high degree of overlap in the themes represented by these submissions. As such they have been grouped in a thematic way.
173. Submissions on specific SNAs have been addressed on an individual basis in section 8.2.

8.1 Introducing significant natural areas protection into the Proposed District Plan

Matters raised by submitters

174. The following submitters support the notified PDP with respect to the identification and protection of SNAs, including that these are not identified on residential land:
- Steve West [2.5]

- Shannon Andrews [12.1]
 - Peter Kelly [16.2]
 - Johnsonville Community Association [429.24]
175. The following submitters support the identification of SNAs in Schedule 8 and seek that it is retained, typically subject to further amendments in their submissions:
- Forest and Bird [345.411]
 - Yvonne Weeber [340.140, supported by Paul Blaschke FS129.14]
 - GWRC [351.346, subject to submission point 351.345]
 - Director-General of Conservation [385.88]
 - Cheryl Robilliard [409.8]
 - Paul Blaschke [435.14, subject to 435.13]
176. GWRC seeks the following changes:
- a. That references within the schedule to 'Biodiversity Management Area' are amended to use their correct terminology, being 'Key Native Ecosystem' [351.348, 351.350]; and
 - b. That Council considers capturing all areas identified as, or overlapping with, Key Native Ecosystem as SNAs in Appendix 8 (Quantitative wind study and qualitative wind assessment - modelling and reporting) [351.349].
177. Smith Geursen [475.2] considers that it could be argued that an area of land should not have special environmental protections (SNA) based on aspirational outcomes unless it has been carefully assessed by an ecologist to confirm that it was desired native species that would likely become dominant (rather than invasive ones).
178. GWRC [351.144] supports that the PDP identifies SNAs in accordance with policies 23 and 24 of the RPS. GWRC [351.32, 351.33] also seeks that the Council applies high, medium and low significance levels to SNAs.
179. Steve West [2.6] seeks that the Council use its own specific SNA identification criteria rather than using that of GWRC. Mr West [2.7] is also concerned that the inclusion of SNAs will create legal risk for landowners if they fail to comply with District Plan requirements that the chapter imposes.
180. Capital Kiwi Trust Board [91.1, supported by Airways Corporation of New Zealand Limited FS106.1] is concerned that the identifying of SNAs on land where bird species (ie kiwi) have been introduced will impose significant constraints on private landowners, which would prevent them from participating in this type of conservation work. They seek clarification that the Council will not identify SNAs on land where species have been introduced voluntarily.

Support for Identifying Significant Natural Areas on Residentially Zoned Land

181. The following submitters are either neutral or supportive of the identification of SNAs on residential zoned land:

- Peter Kelly [16.1]
- Hugh Good [90.3] (not opposed to residential SNAs)
- Oliver Sangster [112.4]
- Tyers Stream Group [221.31, supported by Paul Blaschke FS129.10, opposed by Steve West FS110.1 (opposes exception of residential SNAs), and 221.82 opposed by Steve West FS110.2]
- Forest and Bird [345.171, supported by the Director-General of Conservation FS106.3 and WCCERG FS112.23, opposed by Kāinga Ora FS89.157 and Steve West FS110.3, David Edmonds [FS22.1]
- GWRC [351.31 supported by Wellington Civic Trust FS83.72, Forest and Bird FS85.10, Paul Blaschke FS129.4 and opposed by Kāinga Ora FS89.14; 351.345 opposed by Steve West FS110.13; 351.146 supported by the Director-General for Conservation FS106.5, WCCERG FS112.10, FS112.27 and opposed by Steve West FS110.12]
- Richard Herbert [360.1 - 360.3 (reinstate on MRZ), 360.12, 360.13 supported by Paul Blaschke FS129.9]
- WCCERG [377.3 supported by Wellington Civic Trust FS83.31; 377.115 supported by the Director-General of Conservation FS106.9 and opposed by Steve West FS110.18; 377.517 supported by Paul Blaschke FS129.12; 377.518 supported by Paul Blaschke FS129.13 and opposed by Steve West FS110.19]
- Director-General of Conservation [385.91, supported by GWRC FS84.16 and Paul Blaschke FS129.7 and opposed by Kāinga Ora FS89.55 and Steve West FS110.21; and 385.92 supported by Paul Blaschke FS129.8 and WCCERG FS89.56, opposed by Kāinga Ora FS89.56]
- VicLabour [414.10, 414.23, opposed by Steve West FS110.22]
- Paul M Blaschke [435.1, 435.3, 435.6, 435.13]. Paul Blaschke [FS129.16] also lodged a further submission in support of the submission points from a 'significant number of individuals and groups' that support the reinstatement of SNAs over residentially zoned properties
- Chris Horne, Sunita Singh, Julia Stace, Paul Bell-Butler [456.2, 456.4]
- Ngāti Toa Rangatira [488.48]
- The Tawa Community Board [294.19, supported by Paul Blaschke FS129.6] who specifically is concerned land rezoned from Rural Area under the 2000 District Plan to residential under the 2024 District Plan will not be identified as having SNAs on them. Accordingly, they seek identification of SNAs on that land.

Opposition to Identifying Significant Natural Areas on Residentially Zoned Land

182. The following submitters oppose any subsequent identification of SNAs on residential land:

- David Edmonds [1.1]
- Ian Law [101.8]
- Janice Young [140.8]
- Sarah Packman and Simon Fern [150.1] (with respect to 65A Holloway Road)
- David Stevens [151.18, 151.19]
- Helen Grove [197.3], Onslow Residents Community Association [283.15]
- Russell Taylor [224.5]
- Karepa Dell Developments [241.4] (with respect to 11 Makomako Road)
- Jane Hurley [286.2]
- Penny Griffith [418.6]
- Johnsonville Community Association [429.43]
- Grant and Marilyn Griffiths, Griffiths Family Trust [460.3]

Opposition to Identifying Significant Natural Areas on Private Land Generally

183. The following submitters oppose the identification of SNAs on private land:

- Steve West [2.2 - 2.8] (private)
- Pam Wilson [120.4] (private)
- Helen Grove [197.1, 197.4] (urban or rural)
- Dominic Hurley [260.2]
- Wilma Sherwin [306.4, 306.5] (urban or rural)
- Te Marama Limited [337.15]
- Te Karamu Station Ltd Ratings [362.4, 362.20, 362.2 opposed by M&P Makara Family Trust FS41.26]
- Terawhiti Farming Co Ltd (Terawiti Station) [411.1, 411.4, 411.27]
- Johnsonville Community Association [429.25, 429.44]
- Grant and Marilyn Griffiths, Griffiths Family Trust [460.1, 460.2]

Compensation for Significant Natural Areas on Private Land

184. The following submission points seek that the Council provides incentives or compensation where SNAs are located on private land:

- Steve West [2.3]
- Jane Hurley [286.1]

185. Tawa Community Board [294.11] does not seek compensation specifically, but notes that

SNAs may lead to financial hardship for landowners.

Requests for Clarification of Significant Natural Areas Mapping

186. Steve West [2.1] and Oliver Sangster [112.5, supported by Paul Blaschke FS129.5] seek that the boundaries of the SNA layer are clarified in the mapping.
187. The Director-General of Conservation [385.8, opposed by Transpower FS29.1 and Kāinga Ora FS89.52] seeks that the Council maps additional areas that meet the criteria for SNAs stated in the RPS and to be managed in accordance with section 6(c) of the RMA, such as wetlands and the habitats of At-Risk or Threatened indigenous fauna.

Assessment

General Submission Points

188. I acknowledge the submission point from Steve West [2.5], Shannon Andrews [12.1], Peter Kelly [16.2], GWRC [351.144] and the Johnsonville Community Association [429.24] supporting the notified approach to the identification of SNAs.
189. I recommend that the submission point from Steve West [2.6], seeking that the Council has its own specific SNA criteria, is rejected. While the preparation of the PDP was guided by policies 23 and 24 of the RPS, the NPS-IB has since been gazetted and will be used for future identification of SNAs. I agree with Mr West [2.7] that the inclusion of SNAs will create legal risk for landowners and recognise that at present the transition to the 2024 District Plan (and notified PDP provisions) is creating uncertainty for landowners. It is expected that this will resolve over time. However, I note that failure to comply with the ECO chapter provisions poses no greater legal risk than non-compliance with the provisions of any other chapter. While the onus is on an applicant to ensure works comply with any relevant District Plan provision, the Council also has measures in place to help reduce this risk. For example, new building consents are checked for District Plan compliance. Additionally, a landowner can access the ePlan or request a land information memorandum.
190. I recommend the submission points from GWRC [351.32, 351.33] are rejected. The NPS-IB Appendix 1 identification criteria which I recommend be implemented in this hearing process do not include significance levels. Instead, Appendix 1 requires that when any one of the attributes of the criteria are met that an area qualifies as a SNA. Given this, there is little ability for Council's to rank or categorise SNAs by quality or significance, even if that would be an appropriate step to take. If the submitter's interpretation of 'low significance' is that indigenous vegetation which only meets one criteria of the NPS-IB, it is still required to be managed as a SNA. Areas with no significance should in theory not meet the criteria to be a SNA and therefore not be identified on the planning maps.
191. I sympathise with the concerns of Capital Kiwi Trust Board [91.1] that, over time when (hopefully) the efforts of the Trust Board and private landowners to support species recovery and conservation come to fruition, new areas of land will be subsequently identified as SNAs.

I can see how as vegetation begins to regenerate, either because of restoration efforts or natural regeneration, and when predator control and kiwi habitat expands, that such areas will be considered for identification as SNAs. This highlights an inherent tension within the NPS-IB as it requires councils to promote and provide for restoration while at the same time requiring restrictions on land to protect indigenous biodiversity. There is unfortunately a risk that landowners may consider opting out of participation in conservation work after weighing up the potential that this land may at some stage in the future be identified as a SNA. The Council is required to commence a review of the plan at least every ten years (or sooner if it chooses to do so). I recommend that this tension be considered at next review.

192. In respect of protecting the habitat of specified highly mobile fauna, I do not recommend introducing District Plan provisions through this hearing process on the basis that further direction is required from the GWRC on this matter. I suggest that GWRC engage with Capital Kiwi Trust Board and participating landowners to consider if and how habitats created as part of the programme are treated under the NPS-IB and identified in Plans. I note that any new SNAs identified in the future would need to proceed through a plan change process, with opportunities for landowners to make submissions.
193. For the above reasons, I do not recommend any changes to the PDP because of this aspect of the Capital Kiwi Trust submission.
194. I acknowledge the submissions in support of Schedule 8 [345.411, 340.140 supported by FS129.14, 351.346 subject to submission point 351.345, 385.88, 409.8, 435.14 subject to 43513]. I recommend that these submission points are accepted in part, on the basis that I have recommended changes to the schedule elsewhere in this section 42A report.
195. I agree with Smith Geursen [475.2] that it could be argued that an area of land should not have special environmental protections unless it has been carefully assessed by an ecologist. The process for determining where SNAs in Wellington are applied is set out at section 4.2 of this report. I note that the majority of work has largely been a desktop analysis and specific SNAs could be further refined by ground-truthing the extent of the indigenous biodiversity on a site. Practically, this is most efficient way to undertake such assessments at scale. Where submitters have requested site visits in submissions these have been undertaken as detailed in section 8.2.
196. In respect of Tawa Community Board [294.19, supported by Paul Blaschke FS129.6] my recommendation not to extend mapping of SNAs onto residential land means this submission is rejected, but I can understand how the change of zoning for these sites could appear to be an arbitrary way to avoid identification.

Significant Natural Areas on Residentially Zoned Land

197. As detailed above, submissions were received both in support of, and opposition to, the identification of SNAs on residential zoned land.
198. As detailed in section 4.2 of this report, work was undertaken to identify SNAs on residentially

zoned land and owners engaged as part the Backyard Taonga project from 2019. As noted in section 4.3 the Council's Planning and Environment Committee subsequently resolved to amend the planning maps to remove the identification of SNAs from these areas when notifying the PDP in July 2022. As such no SNAs have been identified on privately owned residential land in the notified PDP. Identifying these areas would have contributed to protecting another 181 hectares of indigenous vegetation in the City.

199. The now approved NPS-IB makes no mention of land use zoning anywhere in the document, including in relation to identifying SNAs. Instead, the criteria of Appendix 1 of the NPS-IB focusses on attributes of representativeness, diversity and pattern, rarity and distinctiveness, and ecological context, guided by key assessment principles.
200. Given this, my view is that the intention of the NPS-IB is that land use zoning is not intended, nor should be, a determining or relevant factor in the assessment or identification of a SNA in a district plan (notwithstanding the higher level discussion in section 6 above on the tensions between the NPS-IB and NPS-UD, and the need for the District Plan to give effect to all relevant national policy statements). I consider that this is the same intent as RPS policies 23 and 24 against which the SNAs proposed for inclusion in the notified PDP were assessed against and spatially identified.
201. In my view, despite national and regional direction seemingly not providing any 'out' to identifying SNAs on residentially zoned land and that the notified PDP is accordingly inconsistent with this requirement, I do not recommend doing so in this hearing process for the reasons discussed below.

Natural justice

202. Identifying SNAs on residentially zoned land at this stage gives rise to substantial natural justice issues.
203. Over 1300 landowners would be directly affected by the identification of SNAs on residentially zoned land. While a small number of residential property owners who would be affected did make a submission on the PDP (typically supporting the notified proposal) the overwhelming majority of affected owners have not lodged a submission on the understanding that no SNAs affecting their land would be included in the PDP. Consequently, those landowners have no ability to enter the hearing process now.
204. It is unreasonable in my view to expect those landowners to have made a submission on the PDP, given that the issue for them had been dealt with conclusively at the time of notification as a result of Council's decision not to include SNAs on residentially zoned land in the District Plan. Given the large number of directly affected people concerned, they should have the ability to engage in the submissions and hearings process on a matter of such importance.
205. I recognise that there may be a view that if, for arguments sake, SNAs were to be identified on residentially zoned land, that these people can join any appeal as a section 274 party. However, I do not consider that to be a fair or just process. It places the onus on the

landowners to remain engaged through the lengthy hearings process, rather than the Council undertaking appropriate consultation in the first instance.

206. Given this, and to ensure no natural justice issues arise, any identification of SNAs on residentially zoned land should follow a separate RMA plan change process in the future.

Amendment Bill

207. As discussed in section 6 of this report, legal advice indicates that post commencement, the Amendment Bill would have the effect of curtailing the extension of notified SNAs onto residentially zoned land where new vegetation that meets the identification criteria exists.
208. Given that the Amendment Bill is expected to come into force before decisions on this topic have been made by the Council, any extension of these areas would fall foul of s78(5) and could not be treated as SNAs.
209. I note that clause 3.16 of the NPS-IB requires that the Council regulate effects on indigenous biodiversity outside SNAs. The Amendment Bill states that clause 3.16 of the NPS-IB must be given effect to within the timeframes specified at subpart 4, and later in this section 42A report I recommend the introduction of provisions to address this clause. As a result, indigenous biodiversity located outside of SNAs will have a level of protection in the interim.

Economic Implications

210. David Norman, Chief Economist at GHD, was commissioned by the Council to understand the economic implications of SNA identification in the District Plan. He was commissioned to estimate the potential costs to affected properties through reduced useability or development potential (ie typically private costs) compared to the society-wide benefits gained from preserving indigenous biodiversity (benefits to the community). Mr Norman's report, which is provided at Appendix F, assessed how these costs and benefits would accrue on land in different zones (broadly, residential or rural) and for land in public and private ownership.
211. In short, Mr Norman's report concluded that reduced land values are likely, because some landowners will face reduced useability or development capability on their properties. With regard to benefits, he concluded that many studies have demonstrated the value communities place on preserving green space and biodiversity.
212. Mr Norman, relying on Council calculations of the potential reduction in development potential that would occur on residential land, estimated substantial losses in land value if SNAs were imposed on private residentially zoned land. Mr Norman's advice is that the public benefits of residentially zoned SNAs are unlikely to outweigh the costs borne by individual residential landowners, in part because privately-held land will remain inaccessible to the community at large.
213. While loss of property value, whether actual or perceived, is not a valid reason preventing

the inclusion of SNAs on residential land, this adds to my concerns that to date residential landowners have not had suitable opportunity to participate in the PDP hearings process and identify their concerns in relation to property values.

214. Additionally, Mr Norman has queried whether the inclusion of residentially zoned SNAs would raise a question of equity, insofar that approximately 400 landowners would accrue costs, whereas there would be a small benefit to the community at large. In his view, this would fail to balance the social, cultural, environmental and economic costs of including residential SNAs.
215. For the abovementioned reasons I recommend that:
- a. Submissions in support of identifying SNAs on residentially zones land are rejected [360.2 - 360.3; 90.3; 435.1, 435.3, 435.6, 435.13, FS129.16; 221.31 supported by FS129.10 and opposed by FS110.1; 345.171 supported by FS106.3, FS112.23 and opposed by FS89.157; FS110.3; 351.31 supported by FS83.72, FS85.10, FS129.4 and opposed by FS89.14; 351.345 opposed by FS110.13; 351.146 supported by FS106.5, FS112.10, FS112.27 and opposed by FS110.12; 488.48; 414.23 opposed by FS110.22; 377.3 supported by FS83.31; 377.115 FS106.9 and opposed by FS110.18; 377.517 supported by FS129.12; 377.518 supported by FS129.13 and opposed by FS110.19; 112.4; 360.1; 414.10; 456.2, 456.4; 360.12, 360.13 supported by FS129.9; 385.91, supported by FS84.16, FS129.7 and opposed by FS89.55, FS110.21; 385.92 supported by FS129.8, FS89.56, opposed by FS89.56; 16.1;
 - b. Submissions opposed to SNAs on residentially zones land are accepted [1.1; 101.8; 140.8; 151.18 – 151.19; 197.3; 283.15; 286.2; 418.6; 429.43; 460.3; 224.5; 150.1; 241.4].
 - c. Submissions opposed to identifying SNAs on private land generally are accepted in part, on the basis that these will still apply to private rural land (as discussed below) [2.2 – 2.8; 120.4; 197.1; 260.2, 306.4 – 306.5; 362.4; 411.4; 429.25; 460.2].

Significant Natural Areas on Private Rural Land

216. I note the submissions that oppose the identification of SNAs on privately owned rural land. Submitters raised concerns about the removal of property rights, lack of compensation and the undoing of owner goodwill with respect to maintaining and restoring indigenous flora and fauna voluntarily.
217. However, on balance, Mr Norman's work suggests that the community-wide benefits are likely to more than offset the costs to landowners, with a benefit-cost-ratio of 0.83 to 2.08. This is demonstrated in Mr Norman's table below in Sensitivity 1.

| Scenario | Willingness to pay benefits (\$m) | Costs to landowners (\$m) | Net benefit (\$m) | Partial Benefit-Cost Ratio (BCR) |
|--|--------------------------------------|------------------------------|-------------------|-------------------------------------|
| Base case: SNAs on natural open space, residential and rural land; land value loss to private land only | | | | |
| <i>High benefits estimate</i> | \$47.5 | \$66.5 | -\$18.9 | 0.71 |
| <i>Low benefits estimate</i> | \$19.0 | \$66.5 | -\$47.5 | 0.29 |
| Sensitivity 1: SNAs on natural open space and rural land; land value loss to private land only | | | | |
| <i>High benefits estimate</i> | \$40.0 | \$19.2 | \$20.8 | 2.08 |
| <i>Low benefits estimate</i> | \$16.0 | \$19.2 | -\$3.2 | 0.83 |
| Sensitivity 2: SNAs on natural open space and rural land; land value loss to private and public land | | | | |
| <i>High benefits estimate</i> | \$40.0 | \$23.0 | \$17.0 | 1.74 |
| <i>Low benefits estimate</i> | \$16.0 | \$23.0 | -\$7.0 | 0.70 |
| Sensitivity 3: SNAs on natural open space, residential and rural land; land value loss to private and public land | | | | |
| <i>High benefits estimate</i> | \$47.5 | \$74.4 | -\$26.9 | 0.64 |
| <i>Low benefits estimate</i> | \$19.0 | \$74.4 | -\$55.4 | 0.26 |

218. Mr Norman's report opines that there are strong incentives for rural land to be used as productively as possible. Consequently, land that is currently identified as being of significant natural value is likely to be located on less productive (and therefore less valuable) parts of land that is steeply sloping or in a gully. The primary productive land, by contrast, is typically clear of vegetation and therefore not within a SNA.
219. Additionally, the SNAs will generally cover a smaller percentage of a rural site given they are typically large (compared to residential sites) and ongoing use of the site elsewhere is not restricted.
220. Taking into account Mr Norman's expert advice, I consider that rural SNAs should be retained in the District Plan and recommend that the following submission points are rejected:
- Helen Grove [197.4], Te Karamu Station Ratings [362.20], Terawhiti Farming Limited (Terawhiti Station) [411.27], Johnsonville Community Association [429.44], Te Marama Limited [337.15]; and
 - Te Karamu Station Ltd Ratings [362.2, opposed by FS41.26], Terawhiti Farming Co Ltd (Terawhiti Station) [411.1] and Grant and Marilyn Griffiths, Griffiths Family Trust [460.1].

Compensation for Significant Natural Areas on Private Land

221. As noted in section 4.3 the Council's Planning and Environment Committee resolved to withdraw residential SNAs from the PDP until such time as a SNA incentives policy was developed and introduced through the Annual Plan / Long Term Plan (the LTP).
222. Council officers have subsequently developed recommendations for an incentives programme, recognising that this would assist to develop positive relationships with landowners subject to SNA restrictions.
223. Recommendations included:
- Financial incentives such as funding for ecological assessments, weeding, fencing and pest control; potentially achieved through rates relief or other methods such as

reduced pre-application and consent fees; and

- b. The creation of a new Council position to provide support and advice on SNAs, such as ecological advice, without cost to landowners.

224. However, due to competing financial priorities, this was not brought forward into the 2024 Long Term Plan (the LTP), which was adopted on 27 June 2024. I note that the requirement to identify and regulate SNAs in a district plan under the NPS-IB is not conditional on the provision of an incentives package. Instead, councils are required to consider providing incentives as part of the restoration of priority areas and on specified Māori land.
225. The timing and implementation of an incentives programme sits outside of the PDP and is delivered through LTP or Annual Plan decisions. As such, I recommend that the submission points from Steve West [2.3], Jane Hurley [286.1] and the Tawa Community Board [294.11] are rejected. More work on this could potentially follow in a later plan change once further work is undertaken in respect of incentives for priority restoration areas as required in clause 3.21(3) of the NPS-IB.

Clarification of Mapping

226. While I agree that the boundaries of SNAs should be clear on the mapped overlay, the submission points from Steve West [2.1] and Oliver Sangster [112.5, supported by Paul Blaschke FS129.5] do not specifically identify where this is not the case. I encourage the submitters to provide this information in the hearings process so I can consider these submission points in more detail, but in the absence of this information I recommend that these points are rejected.
227. In respect of the Director-General of Conservation submission point [385.8, opposed by Transpower FS29.1 and Kāinga Ora FS89.52], at this stage the only mapped wetlands are those identified within SNAs at Schedule 8. This schedule is considered to suitably identify all non-residential SNAs that meet the criteria for identification in the District Plan. The submitter may wish to provide more information in the hearings process with respect to this submission point so that I can turn my mind to it. However, in the absence of this information I recommend the submission point is rejected.

8.2 Submissions on specific significant natural areas

Matters raised by submitters

228. In addition to submissions seeking the removal or addition of SNAs generally, many submitters made submissions on specific SNAs. These submission points are addressed in a table that is provided in the Assessment section below. I note that this section also addresses submission points in relation to Schedule 8 and the mapped SNA overlay.

Assessment

229. Table 5 below sets out all submission points relating to specific SNAs identified at Schedule 8, or where submitters request an unscheduled SNA is added to or removed from their land. This table includes my assessment of these submission points and incorporates advice provided by ecologists from Wildlands, who have reviewed the submission points, undertaken further desktop analysis and undertaken a number of site visits.
230. I expect that submitters will request further site visits be undertaken over the course of the hearing process in respect of their specific properties. I am very supportive of these taking place between the release of the s42A report and the delivery of my right of reply. Now is the best time to ascertain if there are errors in identification and correct these before the Panel makes recommendations in respect of SNA extents. I can assist with arranging these visits and await further instruction.


Table 5 – Responses to submissions on specific significant natural areas in Schedule 8

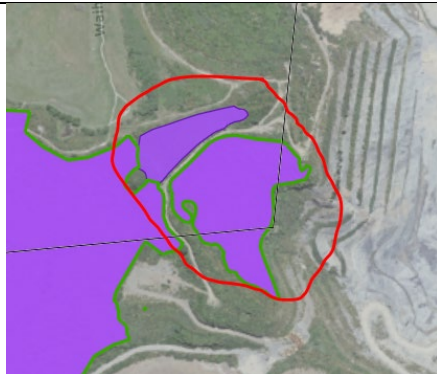
| Submitter | SNA Reference | Relief sought | S42A site visit? | Assessment | Recommendation |
|---|--|---|------------------|--|---------------------------|
| Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt [276.16] | WC007 Old Tawa Road forest tawa forest remnants | Seek absolute protection of the SNA present at 395 Middleton Road. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. The owners are in favour of the SNA. In respect of 'absolute protection' this is a consideration in respect of rule framework. | Accept without amendment. |
| Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt [276.16] | WC008 Tawa forest remnants between Churton Farm subdivision and Old Tawa Road | Seek absolute protection of the SNA present at 395 Middleton Road. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. The owners are in favour of the SNA. In respect of 'absolute protection' this is a consideration in respect of rule framework. | Accept without amendment. |
| Terawhiti Farming Limited (Terawhiti Station) [411.3, 411.26] | WC030 Coastal gully north of Cape Terawhiti | Delete from Schedule 8 and mapping as the SNA is incorrectly identified and would put at risk voluntary participation in conservation programmes at risk. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Terawhiti Farming Limited (Terawhiti Station) [411.3, 411.26] | WC031 Side gully off upper Black Gully | Delete from Schedule 8 and mapping as the SNA is incorrectly identified and would put at risk voluntary participation in conservation programmes at risk. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Terawhiti Farming Limited (Terawhiti Station) [411.3, 411.26] | WC033 Black Gully, Oteranga Bay, Terawhiti Stn. | Delete from Schedule 8 and mapping as the SNA is incorrectly identified and would put at risk voluntary participation in conservation programmes at risk. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |


| | | | | | |
|---|--|---|-----|--|---------|
| Te Karamu Station Ltd Ratings [362.2, 362.21] | WC037 Side gully off Shepherds Gully, Terawhiti Station | Delete from Schedule 8 and mapping as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| M&P Makara Family Trust [159.13] | WC042 Scrub along Makara Stream tributary Quartz Hill No2 | Amend description of SNA to remove a portion of the gully land to the south of the stream running uphill (illustration in submission). | Yes | Site visit was undertaken. Wildlands recommendation is that the SNA should remain with no amendments. I accept that recommendation. | Reject. |
| Te Karamu Station Ltd Ratings [362.2, 362.22] | WC042 Scrub along Makara Stream tributary Quartz Hill No2 | Delete from Schedule 8 and mapping as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Te Karamu Station Ltd Ratings [362.2, 362.23] | WC047 Terawhiti Station shrubland | Delete from Schedule 8 and mapping as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Te Karamu Station Ltd Ratings [362.24] | WC049 Terawhiti Farm Road forest remnants | Delete from Schedule 8 as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Te Karamu Station Ltd Ratings [362.2, 362.25] | WC050 Oteranga Bay Road forest remnant | Delete from Schedule 8 and mapping as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Te Marama Limited [[337.1, opposed by | WC054 Makara Peak | Remove the SNA from private land, specifically: | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No | Reject |

| | | | | | |
|---|---|---|----|--|----------------------------|
| M&P Makara Family Trust FS41.21, and 337.16] | | <ul style="list-style-type: none"> Lot 6 DP 477282 Pt Sec 16 Makara District Delete from the mapping. | | ecological assessment was requested or provided by the submitter. | |
| <p>Kilmarston [290.13, opposed by Adam Groenewegen FS46.11, Jo McKenzie FS64.11, Forest and Bird FS85.23 and Andy Foster FS86.48]</p> <p>Kilmarston [290.17, opposed by Adam Groenewegen FS46.12, Forest and Bird FS85.27 and Andy Foster FS86.51]</p> <p>Graeme Doherty [FS78.1] opposes the submission from Kilmarston in its entirety.</p> | WC060 Huntleigh Park and surrounds | <p>Remove SNA from Huntleigh Park Way as this will be restrictive of development.</p> <p>Remove SNA from the paper road identified as Huntleigh Park Way.</p> <p>Remove SNA from the mapping.</p> | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject |
| Peter Kelly [16.7] | WC061 Otari Wiltons Bush | Retain as notified with no SNA applying to 170 Parkvale Road | No | Relates to a residential that SNA was removed prior to notification. I do not recommend identifying SNAs on residential land. | Accept with no amendments. |
| Boston Real Estate Limited [220.2, 220.4] | WC079 Trelissick Park and Old Porirua Road forest remnants | Delete from Schedule 8, on the basis that this is in private ownership with a business and residential zoning (ie the basis for including this as a SNA was inaccurate), and because the site does not have significant ecological value. Seeks the 2000 District | No | <p>The site was assessed by Wildlands through a desktop assessment as containing an SNA.</p> <p>A site visit was not arranged in time for this s42A report but should be arranged through the hearings process to determine significance of this site,</p> | Accept in part. |

| | | | | | |
|--------------------------|--|--|-----|--|----------------------------|
| | | Plan ('status quo') continues to apply. | | | |
| Aaron Chester [6.1, 6.2] | WC092 Kelburn urban forest remnants | Retain as notified with no SNA applying to 215 Takapu Road | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| David Edmonds [1.2] | WC092 Kelburn urban forest remnants | Remove the SNA from the legal road outside 2 & 4 Governor Road and 6 & 8 The Rigi. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. SNAs still have been identified on residential zoned land that is not privately owned – ie road reserve. | Reject |
| Rod Halliday [25.10] | WC102 Tawa pukatea forest behind old Grenada Landfill | Amend mapping with respect to Lincolnshire Farm development area to remove the SNA from any areas covered by the resource consent reference SR No. 416511 as this consent allows for earthworks and associated vegetation clearance. | Yes | <p>A site visit was held and Mr Halliday met. Main issue is whether SNAs have been identified over those already approved areas in resource consent SR416511.</p> <p>It appears to me that there are no alignment issues other than a small area where the school and sport and recreation area is proposed to be on the development area for Lincolnshire farm. It appears that the development area plan for Lincolnshire Farm as notified and recommended through conferencing in Hearing Stream 6 accounts for the identified SNAs through retaining these areas as open space given they are generally on steep terrain. Wildlands have recommended retention as notified.</p> <p>I have asked Mr Halliday for GIS files so this matter can be further investigated but have not received these.</p> <p>I suggest that Mr Halliday provide these GIS files and in expert evidence and we undertake further work together to determine if there are any outstanding issues.</p> <p>The submission should be rejected, for now.</p> | Reject with no amendments. |

| | | | | | |
|--|--|---|-----|--|---|
| | | | | | |
| Rod Halliday [25.10] | WC103 Tawa forest south of Havana Rise | Amend mapping with respect to Lincolnshire Farm development area to remove the SNA from any areas covered by the resource consent reference SR No. 416511. | Yes | <p>This SNA was also assessed in the same site visit as detailed in the box above. Wildlands recommends no change. I accept that recommendation.</p> <p>On the same day a site visit was undertaken in respect of WC04 where the upper stebbing development area is planned. This formed part of Mr Halliday's submission. Two areas of SNA have been recommended to be removed by Wildlands. I accept those recommendations and note this avoids conflict with the development area plan conferenced in hearing stream 6 where an SNA would have otherwise been identified in an area for a road.</p> <p>Accurate mapping is viewable on the hearings viewer.</p> | <p>Accept in part and remove two areas of SNA from upper stebbing in respect of WC04 (Forest fragments in Churton Park farmland) located within the site at 54 Greyfriars Crescent, Tawa (Stebbing). (Indicative image)</p>  |
| Horokiwi Quarries Limited [271.9, 271.21, opposed by the Director-General of Conservation FS106.2, 271.93, 271.94] | WC109 Coast escarpment broadleaved forest, Hutt Road between Ngauranga and Horokiwi | Amend extent of WC109 to reflect activities permitted under existing use certificate, noting they have concerns as to whether this part of their site would have the biodiversity values to merit its inclusion in the SNA. | Yes | <p>A site visit was undertaken with Wildlands on invitation with the Quarry operator.</p> <p>Based on site visit and review of Boffa Miskell Ecological Report, Wildlands recommend that a SNA is retained for the most part but a small area can be removed.</p> <p>I accept that recommendation.</p> <p>Accurate mapping is viewable on the hearings viewer.</p> | <p>Accept in part with minor amendment to the mapping as shown below in relation to the purple area of SNA that is not encircled in green (Interactive image):</p> |

| | | | | | |
|--|--|--|----|--|---|
| | | | | |  |
| Tyers Stream Group [221.82] | WC114 Tyers Stream | Retain the Tyers Stream SNA as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Te Karamu Station Ltd Ratings [362.2, 362.26] | WC119 Nikau stand in side gully off Oteranga Strm, Terawhiti Stn. | Delete from Schedule 8 and mapping on as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Te Karamu Station Ltd Ratings [362.2, 362.27] | WC120 Nikau and broadleaf forest side gully of South Karori golf course | Delete from Schedule 8 and mapping as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Te Karamu Station Ltd Ratings [362.2, 362.28] | WC121 Tawa forest remnant Karori Golf Course, South Makara Road | Delete from Schedule 8 and mapping as the SNA is arbitrarily imposed and would put at risk voluntary participation in the Capital Kiwi programme. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Terawhiti Farming Limited (Terawhiti Station) [411.26] | WC121 Tawa forest remnant Karori Golf Course, | Delete from Schedule 8 as the SNA is incorrectly identified and would put at risk voluntary participation in | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |

| | | | | | |
|--------------------------------|---|---|-----|---|---|
| | South Makara Road | conservation programmes at risk. | | | |
| Barry Insull [32.12] | WC122 Tongue Point | Amend SNA description to include bird species, consistent with the description for WCC144. | No | Further research is needed to ascertain the presence of quite a long list of bird species in WCC144. This can be undertaken during the hearing process. It is likely at least some are present. In any case they are not a determinative factor for the significance of the SNA. | Accept in part |
| Smith Geursen [475.2, 475.3] | WC135 Carey Gully scrub and shrubland, South Coast | Amend Schedule 8 and mapping with the protected as SNA: <ul style="list-style-type: none"> - The 3m+ vegetation that is north and west of the loop shaped farm track; and - The stand of 3m+ vegetation in the centre to the south of the site. | Yes | <p>A site visit was held that showed historic clearance of indigenous biodiversity has occurred on the flat area of the site but remains in the steep gully. Wilandlands recommend that the SNA boundary is amended to align with the location of the remaining SNA on the site.</p> <p>I accept that recommendation.</p> <p>Accurate mapping is viewable on the hearings viewer.</p> | Accept in part and amend mapping as shown below (Indicative image): |
| | | | | |  |
| John Mulholland [497.2, 497.3] | WC135 Carey Gully scrub and shrubland, South Coast | Amend Schedule 8 and mapping with the protected as SNA: <ul style="list-style-type: none"> - The 3m+ vegetation that is north and west of the loop shaped farm track; and - The stand of 3m+ vegetation in the centre to the south of the site. | Yes | Site visit revealed clearance of indigenous biodiversity has occurred on the flat area of the site but remains in the steep gully. Therefore recommend that the SNA boundary is amended to align with the location of the remaining SNA on the site. | Accept in part, as above. |
| Yvonne Weeber [340.141] | WC144 South Wellington coastal cliffs scrub and shrubland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |

| | | | | | |
|-----------------------------|--|--|----|--|----------------------------|
| Barry Insull [32.9 – 32.11] | WC144 South Wellington coastal cliffs scrub and shrubland | Amend SNA description to include a reference to historic reserve designation and reference the purpose of specialist reserves. - Considers Sinclair Head could be two reserves. | No | SNA description is considered accurate. | Reject. |
| Barry Insull [32.14] | WC144 South Wellington coastal cliffs scrub and shrubland | Supports that credit is being given to the Wellington Cross Country Vehicle Club in WC144 in relation to their conservation input to protect and enhance the covenanted Kinnoull dunes, noting the club has been active in a number of like activities for many years. | No | No action required. | Accept with no amendments. |
| Barry Insull [32.15] | WC144 South Wellington coastal cliffs scrub and shrubland | Amend SNA description to remove mention of ‘the only known North Island population of speargrass weevil (<i>Lyperobius huttonii</i>)’ on the basis that this does not qualify as a historic habitat for this weevil. | No | I encourage Mr Insull to provide more information as to the accuracy (or otherwise) of the Schedule entry so that I can seek further advice from Wildlands and amend if necessary. The submission is rejected, for now. | Reject |
| Barry Insull [32.13] | WC146 Karori Stream Estuary | Amend SNA description to include bird species, consistent with the description for WCC144. | No | Further research is needed to ascertain the presence of quite a long list of bird species in WCC144. This can be undertaken during the hearing process. It is likely at least some are present. In any case they are not a determinative factor for the significance of the SNA. | Accept in part |
| Yvonne Weeber [340.142] | WC147 Owhiro Bay and shore platform | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |

| | | | | | |
|---------------------------------------|--|--------------------|----|---|----------------------------|
| Yvonne Weeber [340.143] | WC148 Island Bay foreshore including Sirens Rock and Island Bay dunes | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.144] | WC149 Houghton Bay foreshore including Elsdon Point, Princess rock stacks and Princess Bay dunes | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.145] | WC150 Te Raekaihau Point Princess Bay | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.146] | WC151 Waitaha Cove duneland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.147] | WC152 Dorrie Leslie Park rocky coast | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Guardians of the Bays Inc [452.99] | WC153 Strathmore coastal shrubland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.148] | WC153 Strathmore coastal shrubland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |

| | | | | | |
|--|---|---|----|--|----------------------------|
| Guardians of the Bays Inc [452.100] | WC154 Moa Point coastal platform and shrubland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.149] | WC154 Moa Point coastal platform and shrubland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.150] | WC155 Palmer Head rocky coast and Tarakena Bay duneland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.151] | WC156 Breaker Bay coastal scrub and forest remnants | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.152] | WC157 Point Dorset coastal shrubland and duneland | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Terawhiti Farming Limited (Terawhiti Station) [411.26] | WC172 South Mākara manuka-kanuka scrub | Delete from Schedule 8 as the SNA is incorrectly identified and would put at risk voluntary participation in conservation programmes at risk. | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |
| Yvonne Weeber [340.153] | WC174 Taputeranga Island | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Guardians of the Bays Inc [452.101] | WC175 Moa Point gravel dunes | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |

| | | | | | |
|--|------------------------------------|---|-----|---|----------------------------|
| Yvonne Weeber [340.154] | WC175 Moa Point gravel dunes | Retain as notified - these gravel dunes have a mix of plants and animal species living in this area that will be protected through this inclusion. | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| WIAL [405.549, opposed by Guardians of the Bay Inc FS44.188, and 406.551 opposed by Guardians of the Bay Inc FS44.190] | WC175 Moa Point Gravel Dunes | Delete from Schedule 8 on the basis that this has been imposed without a detailed field analysis to confirm that the areas are in fact significant and warrant the degree of protection afforded by a SNA ; and in any event, should not be a SNA if this interferes with the safe operation and functioning of regionally significant infrastructure – ie WIAL is concerned that protecting bird habitat could pose risk to aircraft safety. | Yes | A site visit was undertaken by Wildlands, who advise that the SNA should remain as notified. Note that the identification (or otherwise) will not change whether or not birds are already using the site, or increase safety risk. | Reject. |
| Guardians of the Bays Inc [452.102] | WC176 Lyll Bay dunes | Retain as notified | No | Submitter supports SNA, no action required. | Accept with no amendments. |
| Yvonne Weeber [340.155] | WC176 Lyll Bay dunes | Retain as notified - these dune systems have substantially increased since past practices of sand removal and sculpturing have stopped and dune planting and management have increased. Both plants such as pingao and spinifex have enable the dune to be stable for a number of years. | No | Submitter supports SNA, no action required. | Accept with no amendments. |

| | | | | | |
|--|---|---|-----|--|---------|
| WIAL [405.550, opposed by Guardians of the Bay Inc FS44.189], and 406.551 opposed by Guardians of the Bay Inc FS44.190] | WC176 Lyal Bay Dunes | Delete from Schedule 8 on the basis that this has been imposed without a detailed field analysis to confirm that the areas are in fact significant and warrant the degree of protection afforded by a SNA ; and in any event, should not be a SNA if this interferes with the safe operation and functioning of regionally significant infrastructure – ie WIAL is concerned that protecting bird habitat could pose risk to aircraft safety. | Yes | Same assessment as: WIAL [405.549, opposed by Guardians of the Bay Inc FS44.188, and 406.551 opposed by Guardians of the Bay Inc FS44.190] | Reject. |
| WIAL [406.552, opposed by Guardians of the Bay Inc FS44.91] | WC175 Moa Point Gravel Dunes WC176 Lyal Bay Dunes | Seeks that if these SNA are retained then there is a consenting pathway for the removal of vegetation within these SNAs where necessary to protect the safe operation and functioning of regionally significant infrastructure. | Yes | Same assessment as: WIAL [405.549, opposed by Guardians of the Bay Inc FS44.188, and 406.551 opposed by Guardians of the Bay Inc FS44.190] | Reject. |
| Trellisick Park Group [168.27] | n/a | Include new SNA over Heke Reserve, Ngaio | No | If significant this would have been picked up in earlier identification work. I encourage the submitter to provide more information where this area is through the hearings process and this can be followed up. | Reject. |
| Taranaki Whānui [389.74, opposed by Laurence Harger & Ingrid Kölle FS2.9, FS2.21, Enterprise Miramar Peninsula Inc FS26.10, Mary Vaughn and Paul O'Regan | Not specified – applies to SNAs over Miramar Peninsula | Seeks that the zoning and extent of overlays proposed over Te Motu Kairangi / Miramar Peninsula, Mount Crawford is removed (specifically in relation to Part Lot 1 DP 4741, Section 4 SO 477035, PT LOT 1 DP 4741 - | No | The site was assessed by Wildlands through a desktop assessment as containing an SNA. No ecological assessment was requested or provided by the submitter. | Reject. |

| | | | | | |
|---|---------------------------------------|---|----|--|---------|
| FS40.9, FS40.21, Buy Back the Bay FS79.8, FS79.25, FS79.44, Lance Lones FS 81.10 and Andy Foster FS86.16] | | WELLINGTON PRISON, Section 1 SO 477035, Part Section 20 Watts Peninsula District) Additionally Taranaki Whānui [389.75, opposed by Laurence Harger & Ingrid Kölle FS2.10, FS2.22, Mary Vaughn and Paul O'Regan FS40.10, FS40.22, Buy Back the Bay FS79.9, FS79.26, FS79.45, Lance Lones FS 81.11] seeks seeks any other relief that would allow them to exercise tino rangatiratanga over this land. | | | |
| Barry Insull [32.1 – 32.3] | Not specified | Considers that the PDP does not adequately identify why shingle beaches are endangered and seeks that the District Plan is amended to explain both why these are designated as SNAs (eg 122 Tongue Point), and set out what mitigation/enhancement measures are being undertaken and by whom. | No | The SNA descriptions at SCHED8 already explain the values within them. No amendments are considered necessary. | Reject. |
| Roland Sapsford [305.29] | Not specified – relates to Aro Valley | Considers that Aro Valley's vegetation should be considered natural heritage. He seeks that creative solutions, and not just the District Plan, are employed to protect this. | No | Parts of Aro Valley are identified as SNA (WC133). No further action is required. | Reject. |
| Karepa Dell Developments [241.3] | 11 Makomako Road | Seeks that the SNA is removed from this site. | No | There is no SNA at 11 Makomako Road. | Reject. |

| | | | | | |
|--|-----|--|-----|---|---------|
| GWRC [351.347, supported by Guardians of the Bays Inc FS44.192 and Meridian FS101.185] | n/a | <p>Add a new SNAs that cover:</p> <ul style="list-style-type: none"> i. Areas of significant bird habitat in parts of Island Bay, Lyall Bay, Owhiro Bay, Tongue Point, Makara Estuary and Pipinui Point South; and ii. Active and stabilised dunelands in Worser Bay (southern end), Seatoun Beach, Churchill Park, Island Bay (north area, playground, south end), Owhiro Bay (southeast end), Waiariki Stream and Makara Beach (east end). | Yes | <p>Communication has been had between the submitter and myself.</p> <p>The submitter has not been able to provide information on these areas in time for me to consider in this s42A report. They will provide this in expert evidence.</p> <p>The submission is rejected, for now.</p> | Reject. |
|--|-----|--|-----|---|---------|

231. My recommendations in relation to the submission points on specific SNAs are included in the table above, and at Appendix B.

Summary of recommendations

232. **HS11-ECO-Rec1:** That significant natural areas are not identified on privately owned residential zoned land.
233. **HS11-ECO-Rec2:** That Schedule 8 is amended to reflect the updated identification criteria within the NPS-IB.
234. **HS11-ECO-Rec3:** That the spatial extent of significant natural areas on the planning maps are amended to reflect my recommendations in Table 5.
235. **HS11-ECO-Rec4:** That submission points in relation to the identification of significant natural areas are accepted/rejectedd as set out in Appendix B.

9.0 General Submissions

9.1 Submission points not specific to the INF-ECO or ECO Chapters

Matters raised by submitters

236. The Director-General of Conservation [385.6] considers that it would be effective and efficient to align the District Plan with the NPS-IB (while noting that the NPS-IB had no legal weight at the time that the submission was made).
237. Bruce Crothers [319.9 – 319.13] seeks that the PDP includes measures to reduce emissions and ensure the sequestration of carbon by restoring greenspace and wetlands.
238. Chris Horne, Sunita Singh, Julia Stace and Paul Bell-Butler [456.1] support the protection of indigenous plant communities for their own sake, and for their carbon sequestration function. The submitter supports the protection of indigenous biodiversity and SNAs in the District Plan [456.3]. They do not seek any specific relief.
239. Chris Horne, Sunita Singh, Julia Stace and Paul Bell-Butler also seek that a monitoring programme for SNAs is established [456.5].
240. Cheryl Robilliard [409.2] states that she supports the submission by Paul Forrest on ecosystems and backyard taonga in the context of densification and green corridors and biodiversity within the inner city and inner-city suburbs Mt Victoria and Newtown where she lives. I note that Paul Forrest has not made a submission on the PDP.

Assessment

241. As has been discussed in section 6, I agree that the ECO Hearing (Hearing Stream 11) provides an opportunity to give effect to the NPS-IB. That sets out my methodology and reasoning for giving effect to some provisions of the NPS-IB while deferring others within the statutory context of the Amendment Bill and RPS-PC1. Accordingly, I recommend that the submission point of the Director-General of Conservation [385.6] is accepted in part.
242. I acknowledge the submission points from Bruce Crothers [319.9 – 319.13] and Chris Horne, Sunita Singh, Julia Stace and Paul Bell-Butler [456.1, 456.3] and Cheryl Robilliard [409.2]. The ECO chapter seeks to achieve the outcomes sought by these submitters.
243. The Council has a duty to monitor the entire District Plan under section 35 of the RMA. This should include monitoring of SNAs. I note that this function sits outside of the ECO Chapter and the PDP itself. I therefore recommend the submission point from Chris Horne, Sunita Singh, Julia Stace and Paul Bell-Butler [456.5] is accepted in part, albeit with no changes required.

Summary of recommendations

244. **HS11-ECO-Rec5:** That there are no changes to the Ecosystems and Indigenous Biodiversity chapter because of the general submission points above.
245. **HS11-ECO-Rec6:** That the general submission points are accepted/rejected as shown at Appendix B.

9.2 Submissions relating to freshwater

Matters raised by submitters

246. The Director-General of Conservation [385.1] considers that the PDP does not adequately give effect to the NPS-FM and seeks the following amendments:
- That objectives, policies and methods are added to address effects on the health and well-being of waterbodies, freshwater ecosystems, and receiving environments (including wetlands) [385.2, supported by GWRC FS84.11];
 - That the Council works with GWRC to identify any additional sites or areas that should be protected in the District Plan and RPS in line with the NPS-FM [385.4], [385.89, supported by GWRC FS84.13, Forest and Bird FS85.2 and WCCERG FS112.29; and 385.90, supported by Forest and Bird FS85.3];
 - That any policies and rules relating to wetlands are in line with the NZCPS 2010 [385.5].

247. GWRC [351.150] also considers that the PDP has a role in the integrated management of adverse effects on wetlands and their functions, including those wetlands not yet identified, under NPS-FM clause 3.5.
248. Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt [276.1] seek planting around natural water courses and on steep contours to maintain the hillsides during severe weather events.
249. The following submission points relate to specific streams and waterbodies:
- a. Tyers Stream Group [221.4] seeks provisions to provide public access to Tyers Stream, in line with the Council's own policies on public access;
 - b. Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt seek the protection of Porirua Stream [276.3] and Te Awarua-o-Porirua Harbour [276.4]; and
 - c. The Tawa Community Board [294.2] seeks more stringent District Plan measures to provide greater protection against increased erosion events along the Porirua Stream, and that this is not left to the GWRC to regulate.

Assessment

250. In my view it is clear that the management of wetlands is a regional council responsibility for the following reasons:
- a. The NPS-FM directs that regional councils must map wetlands within 10 years of commencement (ie August 2030);
 - b. Clause 5 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the NES-FW) requires regional councils to regulate activities in or near wetlands; and
 - c. Policy 61(b) of the RPS states that management of biodiversity within wetlands is GWRC's responsibility.
251. As such, the PDP does not contain specific provisions relating to wetlands and instead leaves the development and implementation of provisions to manage them to regional planning documents.
252. That said, seven SNAs identified in Schedule 8 are described as having wetlands within them.
253. Clause 1.3(e) of the NPS-IB states that *'if a SNA contains a natural inland wetland, the wetland may be treated as part of the SNA it is located in'*.
254. Accordingly, while there are no specific provisions managing activities in proximity to wetlands (which are otherwise managed by the NES-FW and NRP), where wetlands

located within a SNA contributes to its values, adverse effects will be managed by the SNA provisions of the District Plan where applicable. Where also located within the coastal environment, provisions of the Coastal Environment chapter will also be relevant.

255. The policies below are considered to manage the potential effects that would occur within wetlands:
- a. ECO-P1 – Protection of significant natural areas
 - b. ECO-P3 – Subdivision, use and development in significant natural areas
 - c. ECO-P4 – Protection and restoration initiatives
 - d. ECO-P11 – Significant natural areas within the coastal environment
 - e. CE-P3 – Restoration and enhancement within the coastal environment
 - f. CE-P5 – Use and development in high coastal natural character areas.
256. I consider this approach is consistent with the integrated management directions of policy 5 of the NPS-IB, whereby these important features are suitably identified in the PDP, although not directly regulated by the Council. Considering this approach and the regulatory framework of both the NES-FM and NRP I see no reason to change the approach of the PDP. For these reasons I recommend that submission points of the Director-General of Conservation [385.2 (supported by GWRC FS84.11) [385.89, supported by GWRC FS84.13, Forest and Bird FS85.2 and WCCERG FS112.29; and 385.90, supported by Forest and Bird FS85.3]] are rejected.
257. Further to this, I consider that to prepare District Plan provisions in relation to these matters without a full understanding of the Regional Council's decisions on Change 1 to the RPS introduces a risk to the Council in that any new provisions will be required to cascade from the decisions on Change 1. Given decisions on Change 1 to the RPS are not expected before August 2024 it will not be reasonably practicable to introduce District Plan provisions in time for a September hearing, noting that there would be no opportunity for consultation and no section 32 analysis.
258. Finally, I note that arguably the most significant (at least in terms of size) inland wetland in Wellington is located within Zealandia. There are bespoke provisions providing for the ongoing operation of this wildlife sanctuary within the ECO chapter. In addition, several provisions across the plan do address water bodies include strategic objectives NE-O2, NE-O6 and specific controls are included such as requiring riparian margin setbacks in the subdivision chapter, and in the Natural character Chapter, such as a NATC-R5 which requires resource consent for buildings within 10m of a stream
259. I acknowledge the submission points requesting the Council to work with GWRC to identify additional waterbodies, freshwater ecosystems, and receiving environments

(including wetlands) throughout Wellington. As noted above, the SNAs identified by the Council in Schedule 8 include reference to wetlands where these have been identified. Any new wetlands identified by GWRC will be considered for inclusion into the District Plan through future plan changes. I recommend that submission points 385.4, 385.5 are accepted, albeit with no resultant changes to the PDP.

260. With respect to the submission from Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt [276.1] requesting planting around natural water courses and on steep contours to maintain the hillsides during severe weather events, my view is that the ECO chapter is not the best place to include such requirements. The earthworks (EW) chapter includes provisions relating to slope stability, including EW-P3 (Maintaining stability), as a matter of discretion to be assessed when earthworks exceeding specified limits occur. Conditions can be applied on a resource consent applications made under the earthworks rules to address site stability or in resource consents for building within riparian margins (eg NATC-R5). I therefore recommend the submission point is rejected.
261. Turning to the submission points relating to specific streams and waterbodies:
- a. The Public Access chapter addresses public access to streams. Provisions in this chapter achieve the relief sought by Tyers Stream Group [221.4];
 - b. As discussed, GWRC is the primary consenting authority responsible for the protection of streams and waterbodies, including Porirua Stream and Te Awarua-o-Porirua Harbour. Nevertheless, 2024 District Plan provisions in the Earthworks (EW) and Natural Hazards (NH) chapters achieve the relief sought by Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt [276.3, 276.4]; and
 - c. Likewise, the EW and NH provisions achieve the relief sought by the Tawa Community Board [294.2].
262. Consequently, I recommend that the abovementioned submission points are accepted in part, but with no amendments to the District Plan.

Summary of recommendations

263. **HS11-ECO-Rec7:** That there are no changes to the Ecosystems and Indigenous Biodiversity chapter with respect to submissions relating to freshwater.
264. **HS11-ECO-Rec8:** That the submission points in relation to freshwater are accepted in part/rejected as detailed at Appendix B.

10.0 Submissions on definitions

265. Forest and Bird [345.3] supports the definitions in the *Interpretation* section of the 2024

District Plan in a general sense, albeit seeking a number of amendments as detailed below.

10.1 Submissions on notified definitions

Matters raised by submitters

Biodiversity compensation

266. Transpower [315.16] and the Director-General of Conservation [385.11] support the definition and seeks that this is retained as notified.
267. Forest and Bird [345.4, supported in part by GWRC FS84.96, opposed by KiwiRail FS72.3 and Meridian FS101.2] opposes the definition and seeks its deletion.
268. If the definition is retained, then Forest and Bird [345.5, supported by GWRC FS84.97, opposed by Meridian FS101.3] seek that it is amended for clarity as shown below:

"... The goal of biodiversity compensation is to achieve an outcome for indigenous biodiversity values that is ~~disproportionately positive relative to the values lost~~ of no net loss and preferably a net gain."

Biodiversity off-setting

269. Transpower [315.17], Forest and Bird [345.6] and the Director-General of Conservation [385.12] support the definition and seeks that this is retained as notified.

Drain

270. GWRC [351.38] seeks to amend the definition of Drain to align with the regional plan definition. Drain is defined in the NRP as follows:

Drain: An open watercourse, designed and constructed for the purpose of land drainage of surface or subsurface water.

Note: For the avoidance of doubt, channels or swales that only convey water during or immediately following rainfall events are not drains. Many watercourses that are considered to be drains are natural watercourses that have been highly modified, often over many decades, and include channels dug to drain natural wetlands.

Eco-sourced local indigenous vegetation

271. The Director-General of Conservation [385.14] supports the definition and seeks that this is retained as notified.

Indigenous vegetation

272. Forest and Bird [345.8] opposes the exclusion for indigenous vegetation as defined in and regulated by the National Environmental Standard for Plantation Forestry 2017 (the NES-PF) on the basis that it allows for plans to be more stringent to protect significant biodiversity and that would not be possible with this definition in place, and seeks the definition is amended as shown below:

Means vegetation or plant species, including trees, which are native to Wellington district. ~~Indigenous Vegetation does not include "indigenous vegetation" as defined in and regulated by the NESPF.~~

Pest

273. Forest and Bird [345.9] supports the definition and seeks that this is retained as notified.

Restoration

274. Forest and Bird [345.11, 345.12] supports the definition of restoration, but seeks that this is amended so that it clearly applies to ecological restoration as shown below:

Means an alteration to return a place to a known earlier form, by reassembly and reinstatement, and/or by removal of elements that detract from its heritage value, or the rehabilitation of sites, habitats or ecosystems to support indigenous flora and fauna, ecosystem functions and natural processes that would naturally occur in the ecosystem and locality.

275. GWRC [351.47] seeks that the definition is amended to align with the definition in the Regional Plan. GWRC has not provided this wording, however, Restoration is defined in the NRP as follows:

The rehabilitation of sites, habitats or ecosystems to support indigenous flora and fauna, ecosystem functions and natural processes that would naturally occur in the ecosystem and locality.

276. Director-General of Conservation [385.10, supported by GWRC FS84.14] seeks an additional definition for 'Restoration or Enhancement Activity', as the provisions in the ECO chapter refer to these activities but there is no associated definition. The submitter has not suggested any specific wording.

Significant Natural Area

277. Transpower [315.35] supports the definition and seeks that this is retained as notified.
278. To capture SNAs on residential land, or that have not yet been identified in the District Plan, Forest and Bird [345.14, opposed by Meridian FS101.11] seeks that the definition is amended as follows:

Means an area of significant indigenous vegetation or significant habitat of indigenous fauna that meets any of the criteria in Policy 23 of the Wellington Regional Policy Statement, whether identified in SCHED8 - Significant Natural Areas, SCHED9- Urban Environment Allotments, or as part of a consenting process.

Assessment

279. Many definitions were considered in hearing streams 1 to 5 and the 'ISPP Wrap-Up Hearing' for the PDP in 2023. As detailed at section 4.1, the Council's decisions on these were notified in April 2024. Definitions not determined at that time have subsequently been considered in hearing streams 6 onwards that have been ongoing this year.
280. Consistent with my methodology in section 6, my recommendations for definitions are to:
- a. Generally amend notified definitions to be the same as the NPS-IB definition; and
 - b. Add new definitions into the plan from the NPS-IB where necessary to interpret policies or rules.
281. The above approach informs my assessment of the submission points below. Following this assessment, I have listed additional definitions that I recommend be added.
282. The alternative would be to define these terms as having the same meaning as in clause 1.6 of the NPS-IB, with a hyperlink to this NPS. Given the NPS-IB could be amended or repealed and could result in interpretative changes for the District Plan I do not recommend this approach.

Biodiversity compensation

283. The NPS-IB definition of 'biodiversity compensation' is as follows:

***biodiversity compensation** means a conservation outcome that meets the requirements in Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.*

257. This differs from the notified definition, which is as follows:

***biodiversity compensation** means a measurable positive environmental outcome resulting from actions in accordance with the principles of APP3 – Biodiversity Compensation that are designed to redress the residual adverse effects on indigenous biodiversity arising from activities after appropriate avoidance, minimisation, remediation and biodiversity offsetting measures have been applied. The goal of biodiversity compensation is to achieve an outcome for indigenous biodiversity values that is disproportionately positive relative to the values lost.*

258. I recommend that the NPS-IB definition is adopted into the District Plan, albeit with the amended reference to Appendix 4, which should be replaced with 'Appendix 3 – Biodiversity Compensation'.

259. I therefore recommend the following responses to the submission points:

- a. Accept in part Transpower [315.16] and the Director-General of Conservation [385.11], on the basis the definition is retained, albeit with amended wording.
- b. Reject Forest and Bird [345.4, supported in part by FS84.96, opposed by FS72.3 and FS101.2] on the basis that the definition is not deleted.
- c. Accept Forest and Bird [345.5, supported by GWRC FS84.97, opposed by Meridian FS101.3] in that the relief sought is achieved through the amendment to the definition.

Biodiversity offsetting

260. The NPS-IB definition of 'biodiversity offset' is as follows:

***biodiversity offset** means a measurable conservation outcome that meets the requirements in Appendix 3 and results from actions that are intended to:*

(a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and

(b) achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

261. This differs from the notified definition, which is as follows:

***Biodiversity offsetting** means a measurable positive environmental outcome resulting from actions in accordance with the principles of APP2 – Biodiversity Offsetting designed to redress the residual adverse effects on biodiversity arising from activities after appropriate avoidance, minimisation, and remediation measures have been applied. The goal of a biodiversity offset is to achieve no net loss, and preferably a net gain, of indigenous biodiversity values.*

262. I recommend that the NPS-IB definition is adopted into the District Plan, albeit with the amended reference to Appendix 3, which should be replaced with 'Appendix 2 – Biodiversity Offsetting'.

263. On the basis that the definition is retained but amended, I recommend the submission points from Transpower [315.17], Forest and Bird [345.6] and the Director-General of Conservation [385.12] are accepted in part.

Drain

264. There is no NPS-IB definition for 'drain', which is defined in the notified plan as follows:
- Drain means any artificial watercourse designed, constructed, or used for the drainage of surface or subsurface water, but excludes artificial watercourses used for the conveyance of water for electricity generation, irrigation, or water supply purposes.*
265. This differs from the definition requested by GWRC [351.38] but is directly from the [National Planning Standards 14.Definitions Standard](#). As the latter is the higher order planning document, I recommend retaining the notified definition.

Eco-sourced local indigenous vegetation

266. There is no definition of 'eco-sourced local indigenous vegetation' in the NPS-IB. I therefore recommend that the notified definition is retained, and that the submission point from the Director-General of Conservation [385.14] is accepted.

Indigenous Vegetation

267. The NPS-IB defines 'indigenous vegetation' as follows:
- indigenous vegetation** means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.*
268. The notified definition is as follows:
- Indigenous vegetation** means vegetation or plant species, including trees, which are native to Wellington district. Indigenous Vegetation does not include "indigenous vegetation" as defined in and regulated by the NESPF.*
269. While I consider the notified definition is clearer, I recommend that the definition is amended to align with the NPS-IB.
270. This addresses the relief sought by Forest and Bird [345.8] and I recommend that this submission point is accepted in part.

Pest

271. 'Pest' is not defined in the NPS-IB but is a term used throughout the ECO chapter. I therefore recommend the notified definition is retained as notified, as requested by Forest and Bird [345.9].

Restoration

272. The NPS-IB defines 'restoration' as follows:

***restoration** means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.*

273. The notified PDP contained definitions for 'restoration' and 'restored'. The definition of 'restoration' was in relation to historic heritage and was removed as part of March 2024 decisions on the District Plan.

274. The notified definition of 'restored' is as follows:

***Restored** means the rehabilitation of sites, habitats or ecosystems to support indigenous flora and fauna, ecosystem functions and natural processes that would naturally occur in the ecosystem and locality.*

275. I recommend that the NPS-IB definition for 'restoration' is adopted and replaces the notified definition for 'restored'.

276. This change will generally address the relief sought by Forest and Bird [345.11, 345.12] and I recommend that these submission points are accepted in part. Given that the notified definition of 'restored' aligns with the NRP definition for 'restoration', my recommendation departs from the wording requested by GWRC [351.47]. As such I recommend that this submission point is rejected.

277. I note that the provisions in the ECO chapter refer to 'restoration' but not 'enhancement' and do not consider further amendments to the definition to be necessary. On the basis that the amended definition achieves the relief sought by the Director-General of Conservation [385.10, supported by FS84.14] I recommend that this submission point is accepted in part.

Significant Natural Area

278. The NPS-IB defines 'significant natural area' as follows:

SNA, or significant natural area, means:

(a) any area that, after the commencement date, is notified or included in a district plan as a SNA following an assessment of the area in accordance with Appendix 1; and

(b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as a SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.

279. The notified definition is as follows:

***Significant natural area** means an area of significant indigenous vegetation or significant habitat of indigenous fauna identified in SCHED8 - Significant Natural Areas.*

280. For clarity and simplicity I recommend retaining the notified District Plan definition. The NPS-IB definition is more appropriate to that document as it references appendix 1 of the NPS-IB and the technicalities around anything that has already been identified in a plan after the NPS-IB commencement date.

281. As such, my recommendations on the submission points are as follows:

- a. Accept the submission from Transpower [315.35] as the definition is retained as notified; and
- b. Reject the submission point from Forest and Bird [345.14, opposed by FS101.11].

Summary of recommendations

282. **HS11-ECO-Rec9:** That the following definitions are amended to align with those from the NPS-IB as shown below and in Appendix A.

biodiversity compensation means a conservation outcome that meets the requirements in Appendix 3 – Biodiversity Compensation and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.

~~**biodiversity compensation** means a measurable positive environmental outcome resulting from actions in accordance with the principles of APP3 – Biodiversity Compensation that are designed to redress the residual adverse effects on indigenous biodiversity arising from activities after appropriate avoidance, minimisation, remediation and biodiversity offsetting measures have been applied. The goal of biodiversity compensation is to achieve an outcome for indigenous biodiversity values that is disproportionately positive relative to the values lost.~~

biodiversity offset means a measurable conservation outcome that meets the requirements in Appendix 2 – Biodiversity Offsetting and results from actions that are intended to:

(a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and

(b) achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

~~**Biodiversity offsetting** means a measurable positive environmental outcome resulting from actions in accordance with the principles of APP2 – Biodiversity Offsetting designed to redress the residual adverse effects on biodiversity arising from activities after appropriate avoidance, minimisation, and remediation measures have been applied. The goal of a biodiversity offset is to achieve no net loss, and preferably a net gain, of indigenous biodiversity values.~~

indigenous vegetation means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.

~~**Indigenous vegetation** means vegetation or plant species, including trees, which are native to Wellington district. Indigenous Vegetation does not include "indigenous vegetation" as defined in and regulated by the NESPF.~~

restoration means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities

~~**Restored** means the rehabilitation of sites, habitats or ecosystems to support indigenous flora and fauna, ecosystem functions and natural processes that would naturally occur in the ecosystem and locality.~~

283. **HS11-ECO-Rec10:** That the following definitions are retained as notified:

- a. Drain
- b. Eco-sourced local indigenous vegetation
- c. Pest
- d. Significant natural area

284. **HS11-ECO-Rec11:** That submission points on notified definitions are accepted/rejected as set out in Appendix B.

10.2 New definitions and other amendments to definitions because of the NPS-IB

285. Further to the amendments requested in submissions I have reviewed the NPS-IB to:

- a. Check that the definitions in the 2024 District Plan align with the NPS-IB definitions or whether additional amendments are necessary; and
 - b. Determine whether any additional NPS-IB definitions should be added to the District Plan.
- 286. As a result of this review, I have identified ten definitions that should be added to the District Plan to assist with interpretation.
- 287. I recommend that these definitions are added because the defined term is used within my recommended provisions, notably new ECO-P2 (avoid policy).
- 288. While no specific submissions were received on these definitions, I am satisfied that there is scope to make these changes through the submissions of the Director-General of Conservation [385], Forest and Bird [345] and GWRC [351] requesting better alignment with the NPS-IB.

Summary of recommendations

- 289. **HS11-ECO-Rec12:** That the following definitions are added to the Definitions chapter:

Buffer refers to a defined space between core areas of ecological value and the wider landscape that helps to reduce external pressures.

connectivity refers to the structural or functional links or connections between habitats and ecosystems that provide for the movement of species and processes among and between the habitats or ecosystems

ecosystem means the complexes of organisms and their associated physical environment within an area (and comprise: a biotic complex, an abiotic environment or complex, the interactions between the biotic and abiotic complexes, and a physical space in which these operate).

ecosystem function means the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem

fragmentation, in relation to indigenous biodiversity, refers to the fragmentation of habitat that results in a loss of connectivity and an altered spatial configuration of habitat for a given amount of habitat loss

Habitat means the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern; but does not include built structures or an area or environment where an organism is present only fleetingly.

Indigenous biodiversity means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.

mosaic means a pattern of two or more interspersed ecosystems, communities, or habitats that contribute to the cumulative value of ecosystems in a landscape

sequence means a series of ecosystems or communities, often physically connected, that replace one another through space

Threatened or At Risk, and Threatened or At Risk (declining) have, at any time, the meanings given in the *New Zealand Threat Classification System Manual* (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: <https://www.doc.govt.nz/globalassets/documents/science-and-technical/sap244.pdf>, or its current successor publication

Section 32AA evaluation for changes recommended in sections 10.1 and 10.2

290. In my opinion, the recommended amendments to the ECO definitions are more appropriate in achieving the objectives of the District Plan than the notified provisions. I consider that:

- a. The amendments give better effect to, and provide for better alignment with, the NPS-IB directions, in particular clause 1.6 – Interpretation.
- b. The changes clarify the wording of the respective definitions with respect to the associated sections of the PDP that they relate to.
- c. The changes introduce definitions for terms that are used in the PDP but have not yet been defined, thereby assisting with interpretation for Plan users.
- d. The changes are more efficient and effective than the notified provisions in achieving the objectives of the District Plan.

291. The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

11.0 Ecosystems and Indigenous Biodiversity Chapter

11.1 General submissions

Matters raised by submitters

Submissions in support of the ECO chapter

292. The following submitters support the ECO chapter and seek that this is retained as notified:
- Oliver Sangster [112.9]. Mr Sangster also seeks a public education campaign to raise awareness about the benefits of SNAs [112.10].
 - Tawa Community Board [294.10].
 - GWRC [351.144], insofar as the Council has identified SNAs in accordance with policies 23 and 24 of the RPS, but subject to amendments addressed elsewhere in this section 42A report.
 - Meredith Robertshawe [444.1 – 444.3].
 - Paul M Blaschke [435.5, 435.7], subject to extending the SNAs to include residential land and applying the ECO provisions to residential SNAs.
 - Chris Horne, Sunita Singh, Julia Stace and Paul Bell-Butler [456.3] support the protection of Indigenous Biodiversity and SNAs.
 - Taranaki Whānui [389.73], subject to amendments set out elsewhere in their submission.

Submission in opposition to the ECO chapter

293. Dominic Hurley [260.1] opposes the ECO chapter and seeks that it is deleted.

General submissions and further submissions

294. GWRC:
- a. Identifies that ECO-P2 is incorrectly referenced in a number of provisions and requests that these references are amended to ECO-P1 [351.14]. This error is identified by a number of submitters in relation to specific provisions;
 - b. Seeks that the ECO chapter is amended to require partnering with mana whenua

in the management of activities that affect indigenous biodiversity [351.147, supported by the Director-General of Conservation FS106.6, WCCERG FS112.11 and Ngāti Toa Rangatira FS138.25];

- c. Seeks that the PDP is amended to provide for mana whenua / tangata whenua involvement in the mapping of indigenous biodiversity, including to identify taonga species [351.148, supported by the Director-General of Conservation FS106.7 and Ngāti Toa Rangatira FS138.26]; and
- d. Considers that amendments are required to have regard to policies IE.1 and IE.2 of the proposed RPS Change 1 – through the inclusion of a new matter of discretion or control to consider adverse effects on mahinga kai, other customary uses and access for these activities [351.149, supported by the Director-General of Conservation FS106.8].

295. Steve West [2.4] and Thomas Brett Layton [164.4] seek that the Council works with landowners to develop site-specific rule frameworks for SNAs, rather than having a blanket district-wide framework.

Assessment

296. I acknowledge the submissions in support. I recommend that these submission points are accepted in part, on the basis that I have recommended changes to the chapter in my assessment below.
297. Likewise, I acknowledge the submission in opposition to the ECO chapter. The Council is required under section 6(c) of the RMA, as well as the RPS and NPS-IB to identify and protect areas of significant indigenous biodiversity. As such I recommend that this submission point is rejected.
298. I agree with GWRC that notified references to ECO-P2 throughout the ECO chapter are incorrect. As detailed later in this report I recommend amendments that resolve this issue.
299. I agree with GWRC [351.147, supported by the Director-General of Conservation FS106.6, WCCERG FS112.11 and Ngāti Toa Rangatira FS138.25; 351.148, supported by the Director-General of Conservation FS106.7 and Ngāti Toa Rangatira FS138.26] that the ECO chapter provisions relating to partnering with mana whenua in the management of activities that affect indigenous biodiversity and the identification/mapping of indigenous biodiversity, including to identify taonga species, require further amendments.
300. As discussed in section 6, this work has been deferred to a future Te Ao Māori plan

change. This will ensure a more fulsome review can be undertaken without the time pressure imposed by this hearing and ensure a more meaningful partnership is established. Likewise, I recommend that the alignment with RPS policies E1.1 and E1.2 [GWRC 351.149, supported by the Director-General of Conservation FS106.8] are deferred and occur as part of this later plan change, particularly given the outcome of hearings on the RPS plan change are not yet available.

301. I recommend that the submission points from Steve West [2.4] and Thomas Brett Layton [164.4] are rejected. While there is merit in taking a more general approach to planning provisions it is not practical for the Council to develop site-specific rule frameworks for each SNA in the District nor in my view is such an approach supported by the NPS-IB given its blanket and directive approach. That said each resource consent will be treated on its merits in the context of the SNA in question and Appendices 2 (Biodiversity offsetting), 3 (Biodiversity compensation) and 15 (Ecological Assessment) applied in this light when rules and standards in the ECO chapter are not met.

Summary of recommendations

302. **HS11-ECO-Rec13:** That there are no changes to the Ecosystems and Indigenous Biodiversity chapter because of the abovementioned general submission points.
303. **HS11-ECO-Rec14:** That the general submission points are accepted/rejected as detailed at Appendix B.

11.2 New Provisions

Matters raised by submitters

304. Forest and Bird [345.173, supported by Meridian FS101.117 and WCCERG FS112.25] seeks that a new objective is added to the ECO chapter, as follows:

ECO-Ox

The District's indigenous biodiversity is maintained and enhanced.

305. In addition to their support, Meridian [FS101.117] seek to amend submission [345.173] to qualify "enhanced" with "where appropriate".
306. Forest and Bird [345.174, supported by GWRC FS84.99, Director-General of Conservation FS106.10 and WCCERG FS112.26] seek to add a new suite of objectives, policies and rules to provide for the protection of wetlands. In addition to their support of Forest and Bird, GWRC seeks to ensure that urban development is located and designed in a way that

protects wetlands in accordance with the NPS-FM and (at the time of submitting) proposed RPS Change 1 FW 3.

307. Forest and Bird [345.175, opposed by Steve West FS110.5] seek the addition of a new policy for the identification of new significant natural areas, as follows:

ECO-Px - Identification of significant natural areas

Identify all areas with significant indigenous biodiversity values and list within SCHED8 and SCHED9, and provide for identification of additional areas with significant biodiversity values.

308. Forest and Bird [345.176, supported in part by GWRC FS84.100, supported by Meridian FS101.118, and opposed by Steve West FS110.6] seek the addition of a new policy to maintain indigenous biodiversity, as follows:

ECO-Px - Maintaining indigenous biodiversity

1. To maintain indigenous biodiversity outside of SNAs by avoiding, remedying or mitigating the adverse effects of subdivision, land use and development on indigenous biodiversity.
2. To have regard to the following potential adverse effects in considering subdivision, land use and development that may adversely affect indigenous ecosystems and habitats with indigenous biodiversity values:
 - a. Fragmentation of, or reduction in the extent of, indigenous vegetation or habitats of indigenous fauna;
 - b. Fragmentation or disruption of connections and linkages between ecosystems or habitats of indigenous fauna;
 - c. Loss of, or damage to, buffering of ecosystems or habitats of indigenous fauna;
and
 - d. Loss or reduction of rare or threatened indigenous species' populations or habitats.

309. Forest and Bird [345.177] seek the addition of a new policy for development of existing vacant lots (including private residential lots), as follows:

ECO-Px – Development of existing vacant lots

Provide for the development of existing vacant residential site established prior to the notification of the District Plan where there is no suitable building platform available outside of a Significant Natural Area identified in SCHED8 and SCHED9, having regard to:

1. The location of the building platform and minimizing the extent of associated vegetation removal;
2. The location of the access or driveway to the building platform to minimize the loss of vegetation or fragmentation of the Significant Natural Area; and
 - a. The location of lateral service connections to public wastewater, sewer and water supply network, electricity and telephone cables.

310. Forest and Bird [345.178, opposed by Meridian FS101.119 and Steve West FS110.7] seek the addition of a new rule to manage vegetation clearance outside SNAs. This rule would:
 - a. Limit permitted indigenous vegetation removal to 200m² in any 10 year period; and
 - b. Where permitted activity status is not met, it becomes restricted discretionary with a new policy aimed at maintenance of biodiversity as the matter of discretion.
311. Forest and Bird [345.179, opposed by Meridian FS101.120] seek to add a new rule to manage vegetation clearance in all areas of the coastal environment.
312. Forest and Bird [345.180, opposed by Transpower FS29.36 and Meridian FS101.121] seek to add a new rule to manage vegetation clearance outside of SNAs, with trimming or removal being permitted if:
 - a. It is done to address an imminent threat to people or property provided that a standard is complied with;
 - b. For the operation or maintenance of lawfully established buildings, infrastructure, walking, cycling or private vehicle access or fences or existing farming activities; and
 - c. The removal does not exceed 200m² per title as at notification.
313. If these permitted activity requirements are not met, then the submitter seeks that a Restricted Discretionary activity rule applies.
314. Forest and Bird [345.181, opposed by Steve West FS110.4] seeks that the ECO standards in the DDP relating to SNAs in residential zones are reintroduced.

315. Forest and Bird [345.182, opposed by Transpower FS29.37 and Meridian FS101.122] seek the addition of a new rule to manage indigenous vegetation clearance outside of SNAs to maintain biodiversity, with the rule also applying in the Rural Zone.
316. GWRC [351.150] seek to add a policy to protect and enhance the health and well-being of water bodies and freshwater ecosystems, including wetlands. This would also lead to rules in the subdivision and future urban zone chapters, requiring that waterways and wetlands have been identified for structure planning or subdivision prior to any development occurring.
317. Director-General of Conservation [385.35, supported by Forest and Bird FS85.1 and Meridian FS101.123, and opposed by Transpower FS29.2 and Kāinga Ora FS89.53] seek to add a policy to require the protection of indigenous biodiversity outside of SNAs.
318. GWRC [351.145, supported by the Director-General of Conservation FS106.4 and WCCERG FS112.9] seeks that the Council imposes additional controls through the ECO chapter, such as buffer zones and ecological corridors, to manage the effects of intensification where this occurs adjacent to SNAs. Nga Kaimanaaki o te Waimapihi [215.1, opposed by Kāinga Ora FS89.86] also seek that a buffer zone is included around the SNAs.
319. Likewise, the Director-General of Conservation [385.36, supported by GWRC FS84.15, Meridian FS101.124 and WCCERG FS112.28, and opposed by Kāinga Ora FS89.54] seeks the addition of a new standard to manage development setbacks, as follows:

ECO-Sx

New buildings, building additions, structures, and swimming pools shall be setback 5m from the boundary of a Significant Natural Area.

Assessment

320. My first consideration is whether any new provisions are required because of the NPS-IB and RPS-PC1 recommendations.
321. Table 3 in section 6 of this report identifies where new provisions are in my view accordingly required.

Objective 1 of the NPS-IB

322. This overarching objective sets a clear and directive outcome of at least no overall loss of indigenous biodiversity in New Zealand. It sets the framework for the resultant policies and implementation clauses of the NPS-IB which impose strict requirements to

avoid and manage effects on indigenous biodiversity. Fundamentally, the ECO chapter is required to give effect to this objective.

323. Given its directive nature and limited discretion for implementation I recommend that this objective is carried through to the ECO chapter as one of the overarching objectives for the chapter.

Precautionary approach (NPS-IB policy 3/clause 3.7)

324. Policy 3 and clause 3.7 of the NPS-IB require a precautionary approach to be applied to indigenous biodiversity.
325. The premise of a precautionary approach is to emphasise caution, pausing and review where effects are uncertain, unknown, little understood or could cause significant or irreversible damage. Within this element lies an implicit reversal of the onus of proof, that is, under the precautionary principle it is the responsibility of an applicant to establish that effects are certain and the proposed activity will not (or is very unlikely to) result in significant harm.
326. The precautionary principle is a key policy directive of the NPS-IB, whereas it is not treated as such in the notified ECO chapter.
327. Given the elevation of the principle to policy level as a key component of the NPS-IB which I recommend we implement in this hearing, I recommend a new policy be added modelled on the wording of clause 3.7.

Avoidance and effects management hierarchy frameworks (clause 3.10/3.11)

328. Clause 3.10 generally seeks the adverse effects of new subdivision, use and development on SNAs *be avoided*.
329. This is one of the key differences between the NPS and the notified ECO chapter which provided an 'effects management hierarchy' pathway to adverse effects in the first instance (ECO-P1). It is also very different to the approach of ECO-P3 which uses 'only allow' language.
330. Specifically, clause 3.10(2) that requires that:
- Each of the following adverse effects on a SNA of any new subdivision, use, or development must be **avoided**, except as provided in clause 3.11:*
- (a) loss of ecosystem representation and extent:*
 - (b) disruption to sequences, mosaics, or ecosystem function:*

- (c) *fragmentation of SNAs or the loss of buffers or connections within a SNA :*
 - (d) *a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems:*
 - (e) *a reduction in the population size or occupancy of Threatened or At Risk (declining) species that use a SNA for any part of their life cycle.*
331. Clause 3.10(3) also captures the concept of the precautionary approach by requiring the application of the effects management hierarchy to activities within a SNA for effects not otherwise specified.
332. Clause 3.11 referred to in clause 3.10 specifies a list of activities that *are able to* use an effects management hierarchy to manage their effects ‘as of right’ instead of the avoidance directives of clause 3.10.
333. These activities can be summarised as:
- a. Mineral extraction;
 - b. Aggregate extraction;
 - c. Coal mining;
 - d. The construction of a single household unit on a vacant allotment;
 - e. New use or development is for the purpose of maintaining or restoring a SNA; and
 - f. Harvesting of indigenous vegetation under the Forestry Act.
334. The ‘effects management hierarchy’ is an approach to managing the adverse effects of an activity on indigenous biodiversity that has six sequential steps to address adverse effects on indigenous biodiversity.
335. The effects management hierarchy (defined at clause 1.6 of the NPS-IB) **requires** that:
- (a) *adverse effects are avoided where practicable; then*
 - (b) *where adverse effects cannot be avoided, they are minimised where practicable; then*
 - (c) *where adverse effects cannot be minimised, they are remedied where practicable; then*
 - (d) *where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then*
 - (e) *where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then*
 - (f) *if biodiversity compensation is not appropriate, the activity itself is avoided.*

336. As a framework, clauses 3.10 and 3.11 establish a significantly ‘tighter’ approach to the management of effects on SNAs than the notified ECO chapter’s default effects management hierarchy route.
337. Accordingly, they direct and result in substantial changes to the policy framework of the ECO chapter which I recommend be reconciled through new policies in this hearing process which closely copy the wording of those clauses of the NPS-IB.
338. In respect of implementing clause 3.11 – I recommend that the following clauses not be replicated in the new policy as to my knowledge they are not relevant for Wellington City because those activities do not occur, or because SNA identified in the planning maps do not extend into these areas:
- a. 3.11(1)(a)(iv) the operation or expansion of any coal mine
 - b. 3.11(4) the use of a SNA established for a purpose other than maintenance of restoration; and
 - c. 3.11(5) activities associated with harvesting of indigenous tree species.
339. In respect of the construction and upgrade of specified infrastructure (3.11.1(a) – this is dealt with in the INF-ECO chapter and has bespoke policy direction.

Reconciling the NPS-IB and NPS-UD while maintaining indigenous biodiversity outside of significant natural areas (policy 8/clause 3.16)

340. The NPS-IB fundamentally has a different scope to the notified ECO chapter in that it addresses SNAs and indigenous biodiversity generally, including that located outside of identified SNAs.
341. The objective of the NPS-IB reflects this by being concerned with the maintenance of indigenous biodiversity generally and requiring different management approaches for identified SNAs and indigenous biodiversity outside of these areas.
342. Policy 8 of the NPS-IB directs that *“The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for”*.
343. Clause 3.16 establishes an inherently effects based test for adverse effects on indigenous biodiversity and must be given effect to through the District Plan provisions where:

any **significant adverse effects** must be managed by **applying the effects management hierarchy** and

other effects must be managed **to give effect to the objective and policies of this**

National Policy Statement

344. The Amendment Bill does not extend the timeframe for clause 3.16 and the Council is required to give effect to it '*as soon as reasonably practicable*'.
345. As discussed above in section 6 in respect of reconciling national direction, district plans are required to give effect to and reconcile relevant NPSs and the NPS-IB therefore cannot be considered in isolation. In the context of Wellington's urban areas, it must be considered alongside the national significance of urban development as codified through the NPS-UD and its overarching purpose of achieving '*well-functioning urban environments*'.
346. Wellington City has some very directive requirements to fulfil through the NPS-UD. To reconcile these two pieces of national direction it is therefore important that the NPS-IB is implemented in urban areas through the lens of the NPS-UD.
347. It would have been preferable that the later NPS-IB recognise and reconcile this tension but alas it has not.
348. As such, my view is that the requirement to maintain indigenous biodiversity so that there is no overall loss at a Wellington City scale is managed in a way that does not unnecessarily compromise the development capacity of urban areas, particularly with respect to their ability to accommodate future housing supply.
349. I can accept the directive requirements contained in the NPS-IB with respect to avoiding significant adverse effects on SNAs (clause 3.10), and the use of the effects management hierarchy for other effects on SNAs and the most significant effects on indigenous vegetation outside of SNAs.
350. However, I consider where the plan can meaningfully reconcile the NPS-IB and NPS-UD is in relation to clause 3.16(2) i.e. where all other adverse effects on *indigenous biodiversity outside of SNAs* must be managed '*to give effect to the objectives and policies of this National Policy Statement*'.
351. In my view the broad and general nature of clause 3.16(2) means Councils should be able to develop management responses in the context of the environment in which they are located, and in the context of other national direction which must be implemented.
352. For Wellington City this means that the need to create a well-functioning urban environment is not subverted in order to manage minor adverse effects on indigenous biodiversity, and relate to unidentified indigenous vegetation which is not managed as a SNA.

353. Submitters have identified these tensions too, such as [Steve West \[2\]](#) pointing out that the District Plan enables intensification opportunities within the city's urban boundaries which would be compromised by protection of native bush. Many submitters as identified in section 8.1 contend that they would lose or otherwise have 'property rights' taken from them through the protection of indigenous vegetation on their property. In reality, these submitters are concerned about their ability to use and develop their land which is urban zoned and enabled for development.
354. My view is that '*managing adverse effects to give effect to the objective and policies of this National Policy Statement*' does not mean that there must be a '*one tree out, one tree in*' approach applied to managing adverse effects on indigenous biodiversity. I do not accept that the clause should mean that at a site-specific level there can be no overall loss of indigenous biodiversity. It should be considered at a *city scale* as per my proposition in new ECO-O1.
355. I therefore propose a threefold approach to recognise the need for the Council to give effect to objective 1 and policy 6 of the NPS-UD and reconcile them with policy 8 and clause 3.16 of the NPS-IB:
- a. Introduce a new objective recognising the need to create a well-functioning urban environment when managing indigenous biodiversity outside of SNAs;
 - b. Use this objective as direction to apply a '*minimise*' adverse effects policy approach to the management of adverse effects for the purpose of clause 3.16(2); and
 - c. Introduce a rule triggering a resource consent process for the removal of indigenous vegetation outside SNAs at a level which attempts to find a balance between the competing directives of these NPSs.
356. The wording I propose for the new objective is therefore as follows:

| | |
|----------------------|--|
| <u>ECO-O2</u> | <u>The maintenance of indigenous biodiversity outside of significant natural areas recognises the need to create a well-functioning urban environment.</u> |
|----------------------|--|

357. This objective also reflects the intent of the now operative Strategic Objective UFD-O7 with regard to 'creating a well-functioning urban environment'.
358. In pursuit of this overarching objective, UFD-O7(5) states that *development* can contribute to creation of a well-functioning urban environment that enables all people and communities to provide for the four wellbeings by being undertaken in an

ecologically sensitive manner. There is therefore a clear line of sight from this Strategic Objective to the proposed new ECO-02.

359. This new objective provides direction for the following proposed policy:

| | |
|---------------|---|
| ECO-P8 | <p><u>Maintaining indigenous biodiversity outside of significant natural areas</u></p> <p><u>Manage any adverse effects of new use and development on indigenous biodiversity outside of significant natural areas by:</u></p> <ol style="list-style-type: none"> <u>1. Applying the effects management hierarchy at ECO-P5 where there are significant adverse effects; and</u> <u>2. Minimising other adverse effects.</u> |
|---------------|---|

360. Clause 1 of the proposed policy is taken directly from Clause 3.16(1) of the NPS-IB which requires that significant adverse effects are managed by the effects management hierarchy.
361. Clause 2 supports my approach to reconcile the NPS-IB and NPS-UD by establishing a pathway for adverse effects which are not significant to be managed by minimising removal of vegetation.
362. This approach accepts that the most significant effects should follow the effects management hierarchy approach while lesser effects can be minimised in the pursuit of both the use and development of land and the management of indigenous biodiversity.
363. Less than significant adverse effects should not be managed through a '*one tree out, one tree in*' type approach which could result from application of the effects management hierarchy.
364. I expect that this approach will not be physically possible on typical urban sites where indigenous biodiversity is removed to undertake site clearance, building work and provision of access or servicing areas. It is considered unrealistic to expect an area to be available on a typical urban site to replant the area of vegetation removed. A minimise approach would seek to achieve considered reduction in the amount of vegetation removed while still achieving development outcomes through options such as reducing the width of paths or driveways, or considering different routes through a site to reduce the area of vegetation clearance.
365. As noted, councils have been required to implement clause 3.16 since the commencement of the NPS-IB in late 2023.
366. Since this time, I have been advised that the approach applied by the Council's Resource Consents Team has been to require ecological assessments to determine effects on

indigenous biodiversity where:

- a. a resource consent is required for an activity (eg a multi-unit development); and
- b. an area of indigenous vegetation totaling 50m² or more is proposed to be removed; and
- c. that activity is a discretionary or non-complying activity, or a controlled or restricted discretionary activity; and
- d. there is discretion to consider effects on indigenous biodiversity.

367. Given that this approach is not written into the district plan, applicants are unlikely to be aware of these requirements unless they have engaged with the Council on the matter already.
368. The 50m² trigger was based on initial ecological advice that requiring ecological assessments was a suitable proxy in the interim before the clause was addressed more fully in this hearing given that (except for residential areas) SNAs have been identified district wide. Accordingly, it is reasonable to assume that areas of greatest significance in terms of indigenous biodiversity have already been identified in the plan and subject to the notified ECO rules which had immediate legal effect.
369. I have sought further advice from Wildlands on the appropriateness of a 50m² clearance trigger and have considered that advice in the context of my recommended new objective and policy.
370. I will turn to my recommendations to provide a rule framework in the district plan that implements clause 3.16 shortly. But in the first instance, I identify that insofar as residential areas and in particular 'urban environment allotments' are concerned, there are restrictions under the RMA with respect to tree protection.
371. Sections 76(4A) to 76(4D) of the RMA prevent district plans from including rules that prohibit or restrict the felling, damaging or removal of trees on urban environment allotments unless the tree or group of trees is both described and scheduled (either as a notable tree or SNA in a schedule where these requirements have been met).
372. Urban allotments are defined in s76(4C) as an allotment within the meaning of s218 of the Act that is less than 4000m², served by three waters infrastructure and used for residential or commercial purposes and is not in a reserve.
373. In a Wellington City context this essentially means all areas of the city other than rural and open space areas.

374. Unhelpfully there is no definition of ‘tree’ in the RMA to which these tree clearance rules apply.
375. At face value then, an ‘outside SNA’ clearance rule proposed to implement clause 3.16 of the NPS-IB cannot therefore apply to trees outside of the rural and open space areas, unless the descriptive and identification preconditions in section 76(4A) and s76(4B) are met.
376. To inform my assessment on this matter I have considered the [section 32 analysis](#) and [consultation report](#) prepared by the Ministry for the Environment for the NPS-IB to see how the relationship between sections 76(4A) to 76(4D) of the RMA and clause 3.16 of the NPS-IB were addressed.
377. Unfortunately, I did not find much of assistance in the section 32 evaluation, but I did find sections in the consultation report that were more insightful (copied below from page 117 and boldened for emphasis)

Applicability of general provisions outside SNAs

*Sections 76(4A) to 76(4D) of the RMA prevents territorial authorities setting blanket tree protection rules in ‘urban environment allotments’. Consequently, district plans can only set rules to protect trees in these areas if the trees and street addresses of legal descriptions of the properties are specifically identified in the plans. This means trees need to be mapped on a property-by-property basis – a resource-intensive and costly task. **Therefore, these provisions would not apply to trees in urban areas unless the territorial authorities made specific rules that complied with sections 76(4A) to 76(4D) of the RMA.***

*As noted earlier, we have recommended the outside SNA provisions apply only to significant adverse effects (that is, those applying to large areas and very significant stands of trees) and are likely to result in plan rules such as indigenous vegetation clearance rules. **It was never the intent these provisions would provide blanket protection for trees in urban allotments.***

378. I have sought legal advice from Mr Whittington on this matter and have concluded that any ‘outside SNA’ indigenous vegetation clearance rule cannot apply to *trees* outside of rural and open space areas unless those trees are also described in a schedule for the purpose of the clearance rule.
379. Other alternatives include reintroducing SNAs on residential sites and describing them in a separate schedule of urban allotment trees (as was the case in the DDP) or identifying them in a schedule as notable trees.

380. I have already recommended not identifying SNAs on residential land, namely for reasons of natural justice and the implications of the avoidance framework.
381. Considering the notable tree approach, Council does not have sufficient information on individual trees on residential sites needed to fulfil a STEM assessment.
382. Therefore, in relation to the majority of the Wellington urban environment, an 'outside SNA' indigenous biodiversity clearance rule implementing clause 3.16 cannot apply to 'trees', but it would apply to other forms of indigenous vegetation, presumably shrubby bushes, flaxes and other types of vegetation.
383. That limitation aside, I have worked with and taken advice from Mr Goldwater as to what would be appropriate triggers for a resource consent to determine a relative level of effect under clause 3.16.
384. As a result, I recommended that there be two types of triggers under a proposed new rule for indigenous vegetation clearance outside of a SNA:
- a. A clearance area threshold, which differs by zone; and
 - b. Using the notified Schedule 9 tree diameter at 1.4m above ground approach.
385. The proposed new rule would not apply or duplicate indigenous vegetation removal addressed in CE-R6 recommended in Hearing Stream 8. That rule would continue to manage clearance within high coastal natural character areas and within coastal and riparian margins.
386. To ensure that the rule does not act perversely and become a deterrent to planting indigenous vegetation, the rule would need to only capture indigenous vegetation which existed at a certain point in time. In this way the '*maintain indigenous biodiversity so there is no overall loss **post commencement of the NPS-IB***', should be interpreted as the amount of coverage that physically existed at that time.
387. Put another way, I do not consider that the 'maintain' requirements of Objective 1 of the NPS-IB should 'reset' or function as a 'rising baseline' over time which must keep being met after its commencement. If that were the case, there would need to be a clear exclusion for individuals and communities undertaking restoration works and regenerative planting given such restoration works could subsequently be subject to plan rules.
388. I have considered options on how to ensure that the plan is clear at what point in time the level of indigenous biodiversity should seek to be maintained to and have concluded that specifying a date is necessary. On one hand the date of the NPS-IB commencement

provides a clear line in the sand from which its 'no overall loss' requirements are intended to be met (4 August 2023 – just over a year from the date of this report). If that were the date, it risks there being a disconnect between the vegetation which existed on that date and any areas that may since have been cleared.

389. I have therefore considered what date could be set in the future. The most appropriate date would appear to be the date on which decisions would be made on the rule, which at this point in time is unknown, but likely to be in the first half of 2025.
390. As such, the rule should specify the date of Council decisions as the point at which indigenous biodiversity be maintained to, such that it would not apply to any new indigenous vegetation planted or regenerated after this date.
391. I note that in a monitoring, compliance and enforcement sense there could be difficulties ascertaining the age of vegetation removed in breach of the rule. I understand that ecologically the age of vegetation can be dated in a reasonably straightforward way however considering its maturity such as height, coverage and other characteristics.
392. With respect to clearance area-based thresholds, I propose as a permitted activity a contiguous clearance area of:

3000m² on a site in the General Rural, Open Space and Recreation Zones, and Wellington Town Belt Zone

- a. This aligns with the permitted activity in the *NRP Rule R101: Earthworks*. Setting the resource consent threshold at this level would allow for a reasonable area of vegetation clearance for activities such as primary production activities to occur in the General Rural zone and for maintenance and track creation in Open Space and Sport and Active Recreation and Town Belt zones. These areas have more extensive areas of indigenous vegetation such that it would take a greater area of clearance to tangibly result in any meaningful level of adverse effect that would warrant assessment through a resource consent process.

100m² on a site in all other zones

- b. This smaller area of clearance recognizes that typically there are smaller sites in other zones within Wellington's urban environment, and that a lower threshold is required considering the potential for significant cumulative effects of removal being undertaken over multiple sites.
- c. In respect of the Medium and High-Density Residential Zones, the rule would not

apply to the trimming, pruning or removal of trees in accordance with the tree clearance provisions of the RMA as they can be removed as a permitted activity. The calculation of a contiguous area of indigenous vegetation being removed would however need to include trees that would otherwise be permitted to be removed given that any vegetation within that canopy that is not a tree would be subject to the rule.

- d. This threshold allows for a more generous amount of clearance than that presently managed through the resource consent process.

393. Wildlands advise that as proxies for triggering a resource consent the square meterage of these area-based clearances are generally appropriate in these different zones, considering the minimal benefits and inefficiencies of assessing the effects of any smaller areas of vegetation clearance.

394. With respect to the threshold in respect of removal of a tree:

Removing a tree with a trunk diameter greater than that listed in Schedule 9 would apply in the General Rural, Open Space and Recreation Zones and Wellington Town Belt Zone.

- a. Mr Goldwater's ecological advice is that substantial trees as identified in Schedule 9 are key contributors to ecosystem functioning, particularly in respect of habitats for native fauna. As such Wildlands have recommended that the possibility of their removal function as a threshold for assessment on effects on indigenous biodiversity. I understand that assessing a tree diameter at a 1.4m height is arboricultural best practice and aligns with the amendments made to the definition of 'root protection area' in previous decisions on the PDP.
- b. As I have identified in my preceding paragraphs, s76 continues to curtail the unidentified protection of trees on urban allotments, and as such the removal of indigenous trees in a residential zone, centres or other urban zone would be permitted outright to not fall foul of those restrictions.
- c. Considering the relationship between the notable tree provisions and the policy framework I recommend here, I do not consider that there is a conflict between the two types of regulations in the plan as their policy directions are sufficiently different. TREE-P7 only allows the removal of a tree in a set number of circumstances including where there is an imminent threat to safety, or there are no reasonable alternatives. In my view this is a tougher test to meet than the application of the effects management hierarchy which provides pathways for avoidance, minimization, remedying, offsetting and compensation. Put another way, I am satisfied that the inclusion of a threshold for removing otherwise

unmapped substantial trees does not elevate them above notable trees which have been individually assessed for their values.

395. Functioning in combination these thresholds attempt to find a balance of requiring a resource consent process to be followed only for works at a scale that could have adverse effects on indigenous biodiversity required by the NPS-IB, without unreasonably restricting the use of land for development as enabled by the plan and as directed by the NPS-UD.
396. In addition, I recommend that a list of activities be included in the permitted activity step for the rule to enable established and existing activities to continue irrespective. This is indicative of my view that indigenous vegetation that does not meet significance criteria to be scheduled as SNA should not preclude subdivision, use or development as per clause 3.5, and should be able to be modified as necessary to provide for social, economic and cultural wellbeing as per Objective 1(b)(iv) of the NPS-IB.
397. Accordingly, I recommend that most of the permitted activity subclauses from ECO-R1 (as have been submitted on and responded to) be carried over into the new rule allowing for continued use and development irrespective of the two thresholds. These subclauses at a high level do not allow for new use and development consistent with the intent of clause 3.16.
398. Working together, my intent is that the rule is focused towards and only triggered for new use and development *that is likely* to have effects on indigenous biodiversity. The effects management hierarchy or minimization responses will then allow for a balance of biodiversity maintenance without precluding new use and development.
399. I propose a restricted discretionary activity status where the permitted activities cannot be met. Matters of discretion would be limited to:
- a. ECO-P2 (Precautionary approach);
 - b. ECO-P5 (Effects management hierarchy); and
 - c. ECO-P8 (Maintaining indigenous biodiversity outside of significant natural areas).
400. A restricted discretionary activity status would be appropriate given the narrowed focus of policy ECO-P8 which establishes the direction for this rule. I have also considered a discretionary status although given that the vegetation concerned has not otherwise met the criteria to be considered significant, I view this as too onerous and uncertain for what I would hope to be relatively straightforward applications and assessments with pragmatic solutions. Applications for a resource consent under the rule should be

limited from being limited or publicly notified for these same reasons. There would be limited value or insight to be gained beyond that offered through an ecological assessment. This also increases certainty.

401. I did consider whether including the precautionary approach as a matter of discretion unreasonably tips the balance of decision making against ecologically sensitive subdivision, use and development in an urban environment. Ultimately, I have concluded that Policy 3 of the NPS-IB has purposefully been drafted in a broad and encompassing manner and also applies to the consideration of clause 3.16.
402. This rule would not apply to in respect of Infrastructure. The INF-ECO chapter which is a standalone chapter dealing with provisions concerning indigenous biodiversity and the maintenance and development of infrastructure.
403. Accordingly, the rule that I recommended be added to the plan is as follows:

| <u>ECO-R4</u> | <u>Trimming, pruning or removal of indigenous vegetation outside of a significant natural area (except that falling under CE-R6)</u> |
|---|--|
| <u>General Rural Zone</u> <u>Open Space and Recreation zones</u> <u>Wellington Town Belt Zone</u> | <p>1. <u>Activity Status: Permitted</u></p> <p><u>Where:</u></p> <p>a. <u>The indigenous vegetation existed as at [date of council decision]; and</u></p> <p>b. <u>Trimming, pruning or removal of a contiguous area of indigenous vegetation on a site does not exceed 3000m²; or</u></p> <p>c. <u>The removal does not involve any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground; or</u></p> <p>d. <u>The trimming, pruning or removal is to:</u></p> <p>i. <u>Undertake restoration; or</u></p> <p>ii. <u>Ensure the operation of any lawfully established formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or</u></p> <p>iii. <u>Enable flood protection or natural hazard control where undertaken by a Greater Wellington Regional Council or Wellington City Council or agents on their behalf as part of natural hazard mitigation works; or</u></p> <p>iv. <u>Comply with section 43 or 64 of the Fire and Emergency Act 2017; or</u></p> <p>v. <u>Enable tangata whenua to exercise Customary Harvesting (hauhake); or</u></p> |

| | |
|------------------------|---|
| | <ul style="list-style-type: none"> vi. <u>Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation; or</u> vii. <u>To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by Greater Wellington Regional Council or Wellington City Council, or their approved contractors; or</u> viii. <u>Maintenance of existing buildings or fences; or</u> ix. <u>Maintain an existing farm drain, septic tank disposal field, or constructed stormwater management or treatment device; or</u> x. <u>To create a firebreak within 10m of an external wall or roof of a residential unit that existed at 18 July 2022; or</u> xi. <u>Maintain an access track for agricultural, pastoral or horticultural activities.</u> |
| <u>All other Zones</u> | <p>2. <u>Activity Status: Permitted</u></p> <p><u>Where:</u></p> <ul style="list-style-type: none"> a. <u>The indigenous vegetation existed as at [date of council decision]; and</u> b. <u>A tree is being trimmed, pruned or removed; or</u> c. <u>The trimming, pruning or removal of a contiguous area of indigenous vegetation on a site (including trees otherwise permitted to be removed under ECO-R5.2.b) does not exceed 100m²; or</u> d. <u>The trimming, pruning or removal of indigenous vegetation is to:</u> <ul style="list-style-type: none"> i. <u>Ensure the operation of any lawfully established formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or</u> ii. <u>Comply with section 43 or 64 of the Fire and Emergency Act 2017; or</u> iii. <u>Enable tangata whenua to exercise Customary Harvesting (hauhake); or</u> iv. <u>Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation; or</u> |

| | |
|------------------|---|
| | <p>v. <u>To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by Greater Wellington Regional Council or Wellington City Council, or their approved contractors; or</u></p> <p>vi. <u>Enable the maintenance of existing buildings or fences; or</u></p> <p>vii. <u>Enable the continued operation and maintenance of quarries for aggregate extraction.</u></p> |
| <u>All zones</u> | <p>3. <u>Activity Status: Restricted Discretionary</u></p> <p><u>Where:</u></p> <p>a. <u>Compliance with the requirements of ECO-R4.1 or ECO-R4.2. is not achieved.</u></p> <p><u>Matters of discretion are:</u></p> <p>1. <u>ECO-P2, ECO-P5 and ECO-P8</u></p> <p><u>Section 88 information requirements for applications:</u></p> <p><u>Applications for a resource consent under this rule must contain an ecological assessment in accordance with APP15 – Ecological Assessment.</u></p> <p><u>Notification status:</u></p> <p><u>An application for resource consent made in respect of this rule is precluded from being either publicly or limited notified.</u></p> |

Responses to Submissions

404. The relief sought by Forest and Bird [345.173, supported by FS101.117 and FS112.25] is achieved through the inclusion of my proposed new ECO-O1, and these submission points should be accepted in part (noting that alternative wording is proposed). The relief sought in the associated further submission point from Meridian [FS101.117] should be rejected, on the basis that the wording I have proposed better aligns with the objective of the NPS-IB.
405. The request from Forest and Bird [345.174, supported by GWRC FS84.99, Director-General of Conservation FS106.10 and WCCERG FS112.26] and GWRC [351.150] to add additional provisions in relation to the protection of wetlands has been addressed at section 8.3 of this report, where I advise that the plan's approach is to include a variety of mechanisms such as setbacks, three waters controls and esplanades in addition to

the NRP.

406. I agree with Forest and Bird [345.175, opposed by Steve West FS110.5] that in order to protect SNAs, these need to first be identified. I recommend a new policy that achieves the relief sought in the submission point, albeit with different wording. This change will align with the Historic Heritage chapters (including Historic Heritage, Notable Trees and Sites and Areas of Significance to Māori), all of which include a policy relating to the identification of the heritage items. I recommend that the following policy is added as ECO-P1, with a consequential renumbering of the policies that follow.
407. As detailed, I recommend that the ECO chapter includes a policy and associated rule relating to the clearance of indigenous vegetation outside of SNAs. Therefore, I recommend the following:
- a. That the submission points from Forest and Bird [345.176, supported by FS84.100 and FS101.118, opposed by FS110.6] and the Director-General of Conservation [385.35, supported by FS85.1 and FS101.123, and opposed by FS29.2 and FS89.53] requesting a new policy are accepted in part (on the basis that alternative wording is proposed).
 - b. That the submission points from Forest and Bird [345.178 opposed by FS101.119 and FS110.7; 345.180 opposed by FS29.36 and FS101.121; and 345.182 opposed by FS29.37 and FS101.122] seeking new rules are also accepted in part.
408. Forest and Bird [345.177] seek the addition of a new policy for development of existing vacant lots. Clause 3.11(3) provides an exemption for the construction of one new residential building on a vacant allotment created prior to the commencement of the NPS-IB and where there is no practicable alternative location. My recommended new policy captures this exemption. Hence, I disagree with the submitter that a specific policy relating to the creation of vacant lots is necessary and recommend that this submission point is rejected.
409. Likewise, I disagree with Forest and Bird [345.179, opposed by FS101.120] that a new rule to manage vegetation clearance in all areas of the coastal environment is necessary, on the basis that the relief sought by this submission point is captured by my new recommended rule and CE-R6 in part. I recommend that this submission point is rejected.
410. As I have recommended that residential SNAs are not reinstated at this stage, I recommend the submission point from Forest and Bird [345.181, opposed by FS110.4] seeking that the ECO standards in the Draft District Plan relating to SNAs in residential zones are reintroduced is rejected.

411. The ECO chapter does not specifically address any form of construction works and for this reason I do not consider that the inclusion of a standard that requires a setback (or buffer zone) is appropriate in this chapter. I therefore recommend that submission points requesting setbacks / buffer zones are rejected [351.145, supported by FS106.4 and FS112.9; 385.36, supported by FS84.15, FS101.124 and FS112.28, opposed by FS89.54; 215.1, opposed by FS89.86].

Summary of recommendations – NPS-IB implementation amendments

412. **HS11-ECO-Rec15:** That the following objectives, policies and rules are added to the ECO chapter with a consequential renumbering of provisions within the chapter:

ECO-O1

Indigenous biodiversity is maintained so that there is at least no overall loss in Wellington City.

ECO-P1 – Identification of significant natural areas

Identify areas of significant indigenous vegetation or significant habitats of indigenous fauna in the Wellington district and schedule these areas as significant natural areas.

ECO-P2 – Precautionary approach

Require that a precautionary approach be applied where the effects on indigenous biodiversity are uncertain, unknown, or little understood, but those effects could cause significant or irreversible damage to indigenous biodiversity.

ECO-P3 – Avoiding adverse effects

Avoid the following adverse effects of new use or development on significant natural areas, unless the activity is provided for under ECO-P4:

1. Loss of ecosystem representation and extent;
2. Disruption to sequences, mosaics, or ecosystem function;
3. Fragmentation of SNAs or the loss of buffers or connections within a SNA ;
4. A reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems; and
5. A reduction in the population size or occupancy of Threatened or At Risk (declining) species that use a SNA for any part of their life cycle.

ECO-P4 – Specific activities to use effects management hierarchy

Manage the adverse effects of the following forms of new use and development on significant natural areas in accordance with the effects management hierarchy at ECO-P5:

1. Mineral extraction that provides significant national public benefit or aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand; and
2. New use or development that has a functional or operational need to be in that particular location and where there are no practicable alternative locations for the new use or development; or
3. The construction of a single household unit on a vacant allotment that was created prior to 7 July 2023 and where there is no practicable location within the allotment where the residential unit can be constructed in a manner that avoids the adverse effects specified in ECO-P3; or
4. New use or development is for the purpose of maintaining or restoring a significant natural area that does not involve the permanent destruction of the significant natural area.

Section 32AA evaluation – ECO-O1, ECO-P2, ECO-P3, ECO-P4 and deletion of notified ECO-P3

413. I have undertaken a s32AA evaluation because my recommendations have altered the policy approach for the policy and rule framework by:
- a. Introducing a new objective that there be no overall loss of biodiversity at a city scale;
 - b. Introducing a new policy in respect of the precautionary approach; and
 - c. Modifying the policy approach in respect of the management of effects of activities on SNAs.
414. In my opinion, the amendments to include new ECO-O1, ECO-P2, ECO-P3, ECO-P4 are more appropriate in achieving the objectives of the PDP and the objective of the NPS-IB than the notified provisions.
415. In particular, I consider that:
- a. These amendments achieve greater alignment with higher order planning documents, namely the NPS-IB clauses 3.7, policy 3, policy 7, clause 3.10 and clause 3.11 as well as the imminent recommendations on Change 1 to the.
 - b. These amendments provide an efficient way to implement the NPS-IB in part by focusing on those provisions that are highly directive, must be implemented and are being implemented through Change 1 to the RPS as set out in section 6 of this s42A report.

- c. These amendments will assist to expedite a future plan change to more comprehensively give effect to the NPS-IB.
 - d. The risks of not making these amendments and deferring them is that the plan does not achieve the NPS-IB objective of no overall loss of indigenous biodiversity within Wellington City.
416. Consequently, these amendments are more efficient and effective than the notified provisions in achieving the objectives of the PDP and the objective of the NPS-IB.
417. The environmental, economic, social and cultural costs and benefits of the recommended amendments, as they vary from the existing PDP Evaluation Report, are considered below.

| | |
|----------------------|--|
| Environmental | <p><i>Benefits</i></p> <p>The recommended amendments are expected to have greater environmental benefit for the protection of indigenous biodiversity than in the absence of these provisions, and compared to the notified policy framework. This is because, comparatively, the recommended provisions are more directive and require the outright avoidance of several effects of new activities on indigenous biodiversity.</p> <p><i>Costs</i></p> <p>It is not expected that there are any greater environmental costs than the notified provisions given the stricter approach of the recommended amendments.</p> |
| Economic | <p><i>Benefits</i></p> <p>The economic benefits of the amendments have not been specifically quantified, though are not likely to be much different to that of the notified provisions as assessed by Dr David Norman.</p> <p><i>Costs</i></p> <p>The economic costs of the amendments have not been specifically quantified, though are likely to be greater than the notified provisions for those properties affected given the introduction of a stricter avoidance framework.</p> |

| | |
|-----------------|--|
| | <p>The potential impact on property use and value of the notified proposals was quantified in the report of Dr David Norman (filed as expert evidence in support of this report). Dr Norman's evidence sets out that under a high benefits scenario the benefits of protecting the same areas as SNAs subject to the recommended amendments exceeded a BCR of 2.0. This means the overall benefits were high under that scenario. I would expect that tightening up the policy framework would not result in a BCR falling to less than 1.</p> <p>Under the recommended amendments fewer activities are able to use the effects management hierarchy approach to manage their effects on SNAs which may mean there are greater costs associated with avoiding effects. As a result some new use and development may not occur that could have under the notified provisions.</p> |
| Social | <p><i>Benefits</i></p> <p>The recommended amendments if successful in maintaining indigenous biodiversity within SNAs would secure ongoing appreciation and use of these areas in a recreational sense.</p> <p><i>Costs</i></p> <p>Compared to the notified proposal new walking and cycling tracks through SNAs would be subject to stricter avoidance tests which may mean some are not developed and the ability to appreciate SNAs is reduced.</p> |
| Cultural | <p><i>Benefits</i></p> <p>The recommended amendments if successful in maintaining indigenous biodiversity within SNAs would ensure protection of any cultural values associated with these areas.</p> <p><i>Costs</i></p> <p>Until a provision framework for Specified Māori land is developed there may be greater consenting and development design costs associated with the provisions for Māori seeking to develop land located within a SNA.</p> <p>Generally however, it is not expected that there are greater cultural costs</p> |

| | |
|--|---|
| | than the notified provisions given the stricter approach of the recommended amendments. |
|--|---|

Summary of recommendations – ‘Outside SNA’ Policy 8/Clause 3.16 amendments

ECO-O2

The maintenance of indigenous biodiversity outside of significant natural areas recognises the need to create a well-functioning urban environment.

ECO-P8 – Maintaining indigenous biodiversity outside of significant natural areas

Manage any significant adverse effects of new use and development on indigenous biodiversity outside of significant natural areas by:

1. Applying the effects management hierarchy at ECO-P5 where there are significant adverse effects; and
2. Minimising all other adverse effects.

| <u>ECO-R4</u> | <u>Trimming, pruning or removal of indigenous vegetation outside of a significant natural area (except that falling under CE-R6)</u> |
|---|---|
| <u>General Rural Zone</u> <u>Open Space and Recreation zones</u> <u>Wellington Town Belt Zone</u> | <ol style="list-style-type: none"> 1. <u>Activity Status: Permitted</u> <u>Where:</u> <ol style="list-style-type: none"> a. <u>The indigenous vegetation existed as at [date of council decision]; and</u> b. <u>Trimming, pruning or removal of a contiguous area of indigenous vegetation on a site does not exceed 3000m²; or</u> c. <u>The removal does not involve any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground; or</u> d. <u>The trimming, pruning or removal is to:</u> <ol style="list-style-type: none"> i. <u>Undertake restoration; or</u> ii. <u>Ensure the operation of any lawfully established formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or</u> |

| | |
|------------------------|--|
| | <ul style="list-style-type: none"> iii. <u>Enable flood protection or natural hazard control where undertaken by a Greater Wellington Regional Council or Wellington City Council or agents on their behalf as part of natural hazard mitigation works; or</u> iv. <u>Comply with section 43 or 64 of the Fire and Emergency Act 2017; or</u> v. <u>Enable tangata whenua to exercise Customary Harvesting (hauhake); or</u> vi. <u>Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation (including for fire safety); or</u> vii. <u>To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by Greater Wellington Regional Council or Wellington City Council, or their approved contractors; or</u> viii. <u>Maintenance of existing buildings or fences; or</u> ix. <u>Maintain an existing farm drain, septic tank disposal field, or constructed stormwater management or treatment device; or</u> x. <u>To create a firebreak within 10m of an external wall or roof of a residential unit that existed at 18 July 2022; or</u> xi. <u>Maintain an access track for agricultural, pastoral or horticultural activities.</u> |
| <u>All other Zones</u> | <p>2. <u>Activity Status: Permitted</u></p> <p><u>Where:</u></p> <ul style="list-style-type: none"> a. <u>The indigenous vegetation existed as at [date of council decision]; and</u> b. <u>A tree is being trimmed, pruned or removed; or</u> c. <u>The trimming, pruning or removal of a contiguous area of indigenous vegetation on a site (including trees otherwise permitted to be removed under ECO-R5.2.b) does not exceed 100m²; or</u> d. <u>The trimming, pruning or removal of indigenous vegetation is to:</u> <ul style="list-style-type: none"> i. <u>Ensure the operation of any lawfully established formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or</u> ii. <u>Comply with section 43 or 64 of the Fire and Emergency Act 2017; or</u> |

| | |
|------------------|---|
| | <ul style="list-style-type: none"> iii. <u>Enable tangata whenua to exercise Customary Harvesting (hauhake); or</u> iv. <u>Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation (including for fire safety); or</u> v. <u>To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by Greater Wellington Regional Council or Wellington City Council, or their approved contractors; or</u> vi. <u>Enable the maintenance of existing buildings or fences; or</u> vii. <u>Enable the continued operation and maintenance of quarries for aggregate extraction.</u> |
| <u>All zones</u> | <p>3. <u>Activity Status: Restricted Discretionary</u></p> <p><u>Where:</u></p> <ul style="list-style-type: none"> a. <u>Compliance with the requirements of ECO-R4.1 or ECO-R4.2. is not achieved.</u> <p><u>Matters of discretion are:</u></p> <ul style="list-style-type: none"> 1. <u>ECO-P2, ECO-P5 and ECO-P8</u> <p><u>Section 88 information requirements for applications:</u></p> <p><u>Applications for a resource consent under this rule must contain an ecological assessment in accordance with APP15 – Ecological Assessment.</u></p> <p><u>Notification status:</u></p> <p><u>An application for resource consent made in respect of this rule is precluded from being either publicly or limited notified.</u></p> |

Section 32AA evaluation – ‘Outside SNA’ set of provisions (ECO-O2, ECO-P8, ECO-R4)

418. I have undertaken a s32AA evaluation because my recommendations have altered the policy approach for the policy and rule framework by introducing:

- a. a new objective seeking to reconcile the NPS-IB with the NPS-UD;
- b. a new policy managing the clearance of indigenous biodiversity outside of SNAs; and
- c. a new rule to require resource consents for the removal of indigenous vegetation

where permitted standards are not met.

419. In my opinion, the amendments are more appropriate in achieving the objectives of the PDP and the NPS-IB than the notified provisions.

420. In particular, I consider that:

- a. These amendments achieve greater alignment with higher order planning documents, namely the NPS-IB policy 8 and clause 3.16 and policy 7, clause 3.10 and clause 3.11 as well as the imminent recommendations on RPS-PC1 Policy IE.2A.
- b. The amendments front foot and reconcile the tensions between the NPS-IB and NPS-UD in recognition of the breadth of the strategic direction of the plan, rather than placing greatest weight on the protection of indigenous biodiversity. In doing so they:
 - i. Respond to policy 6 of the NPS-UD insofar that decision makers must recognise planned urban built form when making planning decisions that affect urban environments; and
 - ii. Establish a clear line of sight to the strategic direction of the plan, such as UFD-O7(5) and acknowledge that development can contribute to creation of a well-functioning urban environment that enables all people and communities to provide for the four wellbeings by being undertaken in an ecologically sensitive manner.
- c. These amendments provide an efficient way to implement the NPS-IB in part by focusing on those provisions that are highly directive, must be implemented and are being implemented through RPS-PC1 as set out in section 6 of this s42A report.
- d. Other amendments that do not include a district wide rule would be less efficient and effective, such as:
 - i. only including plan policy or introducing non-statutory methods – these would not be effective in establishing a consistent approach for the consideration of effects on indigenous biodiversity outside of SNAs.
 - ii. including matters of discretion for a wide number of rules in the plan – this would result in uncertainty as applicants would be required to obtain ecological assessments even though in many cases these would not be warranted.
- e. The risks of not making these amendments and deferring them is that:
 - i. The plan does not achieve or take the opportunity to apply nuance within an

urban environment with respect to the NPS-IB objective of achieving no overall loss of indigenous biodiversity within Wellington City.

- ii. The current approach would prevail, which means a resource consent process under another plan rule would be triggered in many situations, which would continue to provide scope to consider effects on indigenous biodiversity. This approach is comparatively ad-hoc, not recorded anywhere in the plan, does not reconcile the tensions between the NPS-IB and NPS-UD and is in effect much stricter than my recommended rule.

421. Consequently, these amendments are more efficient and effective than the notified provisions in achieving the objectives of the PDP and the objective of the NPS-IB.

422. The environmental, economic, social and cultural costs and benefits of the recommended amendments, as they vary from the existing PDP Evaluation Report, are considered below.

| | |
|----------------------|--|
| Environmental | <p><i>Benefits</i></p> <p>The recommended amendments are expected to have greater environmental benefit for the protection of indigenous biodiversity than in the absence of these provisions and compared to the notified policy framework.</p> <p>This is because the notified plan contained no general provisions in respect of indigenous vegetation clearance outside of SNAs. It did include consideration of vegetation in some matters of discretion (eg earthworks/subdivision) and had limited rule application (i.e in the coastal environment only).</p> <p>The proposed rule would not apply to restoration activities, or any indigenous vegetation planted after the date of the Council decision, and as such it would not dissuade these activities from occurring.</p> <p><i>Costs</i></p> <p>It is expected that there will be little to no environmental costs compared to the notified proposal.</p> |
| Economic | <p>The economic costs and benefits of the recommended amendments have not been able to be quantified with expert advice in time for this s42A</p> |

| | |
|--|--|
| | <p>report. They will be provided for consideration prior to the hearing.</p> <p><i>Benefits</i></p> <p>Formalizing an approach to implementation of policy 8/clause 3.16 in the district plan provides certainty of consenting requirements in respect of when an ecological assessment is required.</p> <p>This is more efficient than finding out there are additional costs through the present ad-hoc approach being applied to give effect to clause 3.16.</p> <p>The recommended amendments will have a positive economic impact on property use and value compared to the same areas being identified as SNAs. This is because, compared to the suite of provisions applying to SNAs, the recommended amendments:</p> <ul style="list-style-type: none"> • allows for a more generous permitted level of clearance; • enables existing uses to continue and not be restricted by standards; • preclude a resource consent from being either limited or publicly notified, increasing certainty; and • allows for the removal of trees in urban allotments which otherwise would require resource consent. <p><i>Costs</i></p> <p>There will be economic impacts because of the requirements to obtain a resource consent informed by an ecological assessment addressing the effects management hierarchy or other mitigation measures.</p> <p>An ecological report could be in the realm of \$3000.</p> <p>A non-notified resource consent application fee is presently \$2,776.50.</p> <p>These costs would only be incurred when the permitted activity standards cannot be satisfied which involve more substantial removal of indigenous vegetation. As such, these costs could be financially offset if vegetation removal were to enable a productive use or development that generated</p> |
|--|--|

| | |
|-----------------|---|
| | <p>profit.</p> <p>Despite this, these costs may result in some marginal new uses and development not occurring that otherwise would have in the absence of the new provisions.</p> <p>Despite the above, the recommended amendments would have district wide effect insofar that they will apply to a greater number of properties than SNA protections, especially in respect of residential sites which were not notified as or recommended to be identified as SNAs.</p> |
| Social | <p><i>Benefits</i></p> <p>If successful, the amendments may:</p> <ul style="list-style-type: none"> • secure maintaining of indigenous biodiversity outside SNAs through preventing sizeable clearance without mitigation, contributing to ongoing or increased appreciation of these areas; • result in incorporation of indigenous vegetation in publicly accessible locations or assets such as parks, open spaces and tracks that may otherwise have been removed; and • contribute to the sense of place and identity of Wellington City. <p><i>Costs</i></p> <p>The recommended amendments may result in some marginal new uses and development not occurring that otherwise would have in the absence of the new provisions, including housing.</p> <p>This could mean there are fewer opportunities for different types of housing in urban areas featuring indigenous biodiversity compared to the absence of these provisions.</p> <p>Development capacity impacts have not been modelled and are therefore uncertain.</p> |
| Cultural | <p><i>Benefits</i></p> |

| | |
|--|--|
| | <p>The recommended amendments will assist in maintaining indigenous biodiversity outside of SNAs, and will thus help protect cultural values associated with indigenous biodiversity generally.</p> <p><i>Costs</i></p> <p>Until a provision framework for Specified Māori land is developed the economic costs identified above would also be borne by Māori.</p> <p>Generally, however, it is not expected that there are greater cultural costs than the notified provisions.</p> |
|--|--|

423. **HS11-ECO-Rec16:** That submission points in relation to new provisions in the Ecosystems and Indigenous Biodiversity chapter are accepted/rejected as set out in Appendix B.

11.3 ECO Introduction

424. Transpower [315.162] supports the Introduction to the ECO chapter whereby this identifies that provisions specific to infrastructure are addressed in the INF-ECO chapter.
425. Forest and Bird [345.172, supported by WCCERG FS112.24] considers that the Introduction is silent on the Council's function to maintaining biodiversity, which is wider than only protection SNAs. The submitter notes that purpose of this chapter is to identify significant natural areas within Wellington City to protect and maintain the remaining areas of indigenous biodiversity, and to maintain biodiversity outside of significant natural areas. The submitter notes that the ECO chapter contains provisions which support that function. They seek that the Introduction is amended as follows:

Introduction

The purpose of this chapter is to identify significant natural areas within Wellington City to protect and maintain the remaining areas of indigenous biodiversity. In addition to the requirement to identify and protect significant natural areas, Council also has the job of maintaining biodiversity outside of significant natural areas. This chapter contains provisions which support that function.

...

The SNAs that are covered by this chapter are contained in SCHED8 – Significant Natural Areas, SCHED 9 – Urban Environment Allotment, and any area that biodiversity values that meet Policy 23 RPS. Where SNAs are within an urban environment allotment the trees and location are identified in SCHED9 – Urban Environment Allotments to meet the requirements of s76 of

Assessment

426. In the first instance, it is necessary to amend the ECO Introduction to capture the intent of the NPS-IB and additional regulatory requirements that this imposes.
427. In this respect, I agree with Forest and Bird [345.172, supported by WCCERG FS112.24] that the NPS-IB directs that the Council's function includes maintaining biodiversity outside of SNAs (clause 3.16 of the NPS-IB). I recommend that the Introduction is amended including changes to the arrangement of paragraphs, deletion of outdated references to the RPS and previous Council decisions which I consider are minor and inconsequential.
428. While my recommended wording does not match that requested by the submitter with respect to biodiversity outside SNAs, it achieves the relief sought. As such, I recommend the submission point is accepted in part. For the reasons discussed in section 8.1 of this report, I do not support the inclusion of residential SNAs or the requested reference to Schedule 9, which was not part of the notified PDP.

Summary of recommendations

429. **HS11-ECO-Rec17:** That the Introduction to the Ecosystems and Indigenous Biodiversity chapter is amended as shown below and at Appendix A.

Introduction

The purpose of this chapter is to ~~identify significant natural areas within Wellington City in order to protect and maintain the remaining areas of indigenous biodiversity~~ fulfil the Council's requirements under the National Policy Statement on Indigenous Biodiversity 2023 (NPS-IB) and New Zealand Coastal Policy Statement 2010 (NZCPS) as relevant to indigenous biodiversity.

~~Historic urban and rural land use activities have contributed to the continuing decline of indigenous biodiversity over time. The effects not only reduce native biodiversity but result in soil loss through increased erosion and sedimentation loss to streams, rivers, lakes and harbours by adversely impacting on water quality and habitats of those areas.~~

This chapter fulfils these requirements by identifying areas of indigenous ecosystems and habitats with significant biodiversity values as significant natural areas ("SNAs"). ~~These are district-wide overlays which apply within that applies to all zones except residential zoned land, in accordance with the adopted amendment by the Wellington City Council Planning and Environment Committee on 23 June 2022.~~ The method of identifying SNAs is consistent with the criteria of the NPS-IB, within Policy 23 of the Greater Wellington Regional Policy Statement.

~~Historic urban and rural land use activities have contributed to the continuing decline of indigenous biodiversity over time. The effects not only reduce native biodiversity but result in soil loss through increased erosion and sedimentation loss to streams, rivers, lakes and harbours by adversely impacting on water quality and habitats of those areas.~~

The objectives, policies and rules manage the effects of activities on the indigenous biodiversity values within the City and are guided by the NPS-IB and NZCPS. ~~In respect of SNAs~~ The rules recognise some activities can occur with limited impacts ~~on the value of SNAs~~ and are provided for as permitted activities. Other activities could result in a greater level of effect, and such activities will require a resource consent. This is to enable an assessment of the activity and effects against the SNA values.

The chapter also includes controls to manage the loss of indigenous biodiversity outside of SNAs across the city by allowing a contiguous area of indigenous vegetation to be cleared after which a resource consent is required.

~~There are also additional~~ For allowances provisions related to ~~for~~ the removal of vegetation in a SNA relating to Infrastructure and the National Grid refer to the INF-ECO and INF-NG subchapters. ~~and also for the removal of branches near power lines in accordance with Electricity (Hazards from Trees) Regulations 2003.~~

~~The effects management hierarchy forms a central approach to assessing effects of activities on identified SNA values. This comprises a sequence of steps prioritising the approach to avoid, minimise and remedy the effect on identified values before considering biodiversity offsetting and lastly biodiversity compensation, which is the least preferred option and may only be considered after demonstrating how the preceding steps have been addressed. The principles guiding what constitutes offsetting or compensation are included as appendices to this chapter (see APP2 – Biodiversity Offsetting and APP3 – Biodiversity Compensation). The overall intent of this sequential approach is to maintain and, where appropriate, restore indigenous biodiversity values while still providing for some subdivision, use and development. Where offsetting is required the overall outcome should be no net loss and preferably a net gain in biodiversity values.~~

The SNAs that are covered by this chapter are contained in SCHED8 – Significant Natural Areas.

The provisions of this chapter do not apply to work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act.

430. **HS11-ECO-Rec18:** That submission points in relation to the Introduction to the Ecosystems and Indigenous Biodiversity chapter are accepted/rejected as set out in Appendix B.

11.4 ECO-O1: Significant natural areas are protected from inappropriate subdivision, use and development and where appropriate, restored

431. Kilmarston [290.34] supports ECO-O1 and seeks that the objective is retained, albeit with concerns should SNAs be extended over paper roads and access areas. The submitter does not request any changes to the objective.
432. Tyers Stream Group [221.32, opposed by Meridian FS101.125] seeks that ECO-O1 is amended to delete the word 'inappropriate'. No reason is given for this request.
433. Ngāti Toa Rangatira [488.49, 488.50] supports ECO-O1 in part, but seeks that this is amended to mention protection of SNAs from incompatible activities. The submitter has not provided specific wording for this change.
434. Meridian [228.68, 228.69, supported by WELL FS27.7] supports the objective in part, but seeks that this is amended to clarify that it is the values of the SNAs that should be protected and not the geographical areas they occupy. They seek that ECO-O1 is amended as shown below:

ECO-O1 – The ecological and indigenous biodiversity values of significant natural areas are protected from inappropriate subdivision, use and development and where appropriate, restored.

435. Forest and Bird [345.183, opposed by Meridian FS106.126] seeks that ECO-O1 is amended to delete the phrase 'from inappropriate subdivision, use and development' on the basis that section 6(c) of the RMA does not include this. They seek that ECO-O1 is amended as shown below:

ECO-O1 – Significant natural areas are protected ~~from inappropriate subdivision, use and development~~ and where appropriate, restored.

436. WCC Environmental Reference Group [377.116, opposed by Meridian FS 107.127] considers that it is crucial that SNAs are protected, as is required by law and seeks an amendment to put the emphasis on restoration as the default position, rather than a possible option. The amendment sought by the submitter is shown below:

ECO-O1 – Significant natural areas are protected from inappropriate subdivision, use and development and where ~~appropriate~~ possible, restored.

437. The Director-General of Conservation [385.37, 385.38] opposes ECO-O1 in part, on the basis that ECO-O1 and ECO-O2 are seeking the same outcome and should be combined into one objective. The submitter seeks the following amendment, which they consider to better align with Policies 7 and 14 of the NZCPS:

ECO-O1 – Significant natural areas (including those within the coastal environment) are protected from inappropriate subdivision, use and development and where appropriate, restored or rehabilitated.

Assessment

438. Kilmarston [290.34] does not request any changes to the objective. I note that their concerns with respect to paper roads are addressed in the ECO standards.
439. Tyers Stream Group [221.32, opposed by Meridian FS101.125] seeks that the word 'inappropriate' is deleted from the objective. This change would have the result of signaling that subdivision, use and development should not occur in SNAs in any circumstances. The NPS-IB sets out in clause 3.11 specific circumstances and activities where an effects management hierarchy is appropriate to manage effects on SNAs as a result of subdivision, use and development. Accordingly, there *is* by inference the possibility for appropriate subdivision, use and development within SNAs and I therefore recommend this submission point is rejected.
440. For the same reason I recommend the submission of Forest and Bird [345.183, opposed by FS106.126] is rejected.
441. I disagree with the relief sought by Ngāti Toa Rangatira [488.49, 488.50] on the basis that the notified provision is consistent with policy 7 of the NPS-IB.
442. I disagree with Meridian [228.68, 228.69, supported by FS27.7] that it is the values of the SNAs that should be protected and not the geographical areas they occupy. I note that policy 7 of the NPS-IB is focused on SNAs, rather than their values.
443. I disagree with the relief sought by WCCERG [377.116, opposed by Meridian FS 107.127] to change the words 'where appropriate' to 'where possible' on the basis that this wording would diverge from the wording in the NPS-IB, while providing no difference with respect to the outcome achieved by the objective.
444. I agree with the Director-General of Conservation [385.37, 385.38] that ECO-O1 and ECO-O2 are seeking the same outcome and should be combined into one objective. This will reduce Plan complexity while achieving the outcomes sought by having two separate objectives. ECO-O1 is sufficiently broad to cover all types of activities, including

in my view ECO-O3, which I discuss below.

- 445. In my view the combination of ECO-O1 and ECO-O2 does not reduce the level of protection afforded to SNAs in the coastal environment, as the PDP seeks to protect the ecological and biodiversity values within SNAs regardless of their location.
- 446. The use of the phrase '*and where appropriate restored*' is complementary to the intent of policy 11 of the NZCPS, which also anticipates restoration works where activities have an adverse effect.
- 447. Clause 1.4 of the NPS-IB clarifies that both the NZCPS and NPS-IB apply to SNAs within the coastal environment, with the NZCPS to prevail if any conflict arises. There is no requirement to include a specific objective relating to the coastal environment as long as the intent of both the NPS-IB and NZCPS policy 11 are achieved.
- 448. I recommend minor and inconsequential changes be made to the capitalisation of significant natural areas in the objective.

Summary of recommendations

- 449. **HS11-ECO-Rec19:** That ECO-O1 (Significant natural areas are protected from inappropriate subdivision, use and development and where appropriate, restored) is retained as notified and renumbered as ECO-O3.
- 450. **HS11-ECO-Rec20:** That submission points in relation to ECO-O1 (Significant natural areas are protected from inappropriate subdivision, use and development and where appropriate, restored) are accepted/rejected as set out in Appendix B.

11.5 ECO-O2: Significant natural areas within the coastal environment are protected

Matters raised by submitters

- 451. Tyers Stream Group [221.33], Kilmarston [290.35], Forest and Bird [345.184] and WCCERG [377.117] support ECO-O2 and seek that the objective is retained as notified.
- 452. Victoria University of Wellington Students' Association [123.39] seeks that building activities around the coast are restricted to protect biodiversity, along with natural character and amenity values. As such, the submitter supports ECO-O2 but seeks that building activities around the coast, including airport runway extensions, acknowledge the large range of indigenous birds that nest around the coastline [123.40].
- 453. Meridian [228.70, 228.71] supports the objective in part, but seeks that this is amended as shown below:

ECO-O2 – The ecological and indigenous biodiversity values of Significant natural areas within the coastal environment are protected.

454. GWRC [351.151, supported by Meridian FS101.128] seeks to amend the wording of ECO-O2 so that this differs from that of ECO-O1. The change sought by the submitter is as follows:

ECO-O2 – Significant natural areas within the coastal environment are protected and, where appropriate, restored or rehabilitated.

455. The Director-General of Conservation [385.39] considers that as ECO-O1 and ECO-O2 both seek the same outcome, they should be incorporated into a single policy. The submitter seeks that, subject to their requested amendments to ECO-O1, ECO-O2 is deleted in its entirety.

Assessment

456. I agree with the Director-General of Conservation [385.39] that ECO-O1 and ECO-O2 seek the same outcome and can be combined, and propose this change in a previous recommendation. As such, I recommend that this submission point is accepted and the submissions in support of the objective are rejected [221.33, 290.35, 345.184, 377.117] (albeit noting that ECO-O1 achieves the same relief).
457. The revised ECO-O1 and policies and rules that will follow achieve the relief sought by Victoria University of Wellington Students' Association. SNAs around the south coast are an INF-ECO matter, but there are also controls in the Coastal Environment and Natural Character Chapters to manage these matters too. As such, I recommend that submission points 123.39 and 123.40 are accepted in part, albeit with no changes to ECO-O2 as a result of these points.
458. I recommend the submission of Meridian [228.70, 228.71] is rejected for the same reasoning as my assessment in ECO-O1.
459. The combining of ECO-O1 and ECO-O2 also achieves the relief sought by GWRC [351.151, supported by Meridian FS101.128] as the requested wording is included within ECO-O1.

Summary of recommendations

460. **HS11-ECO-Rec21:** That ECO-O2 (Significant natural areas within the coastal environment are protected) is deleted.

461. **HS11-ECO-Rec22:** That submission points in relation to ECO-O2 (Significant natural areas within the coastal environment are protected) are accepted/rejected as set out in Appendix B.

11.6 ECO-O3: Significant natural areas are protected from the adverse effects of plantation forestry activities

Matters raised by submitters

462. Tyers Stream Group [221.34], Kilmarston [290.36], Forest and Bird [345.185], Ngāti Toa Rangatira [488.51] and WCCERG [377.118] support ECO-O3 and seek that the objective is retained as notified.

Assessment

463. Policy 12 of the NPS-IB states: *“Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities”*.
464. In addition, clause 3.14 relates to plantation forestry activities. Clause 3.14(1) requires that, where an existing plantation forest includes a SNA, the effects on the SNA are managed in a manner that both protects the indigenous biodiversity as much as possible, and allows the plantation forestry activity to continue. Clause 3.14(2) requires that where vegetation for plantation forestry is planted within a SNA, this must be managed to maintain long-term populations of any long-term populations of any Threatened or At Risk (declining) species present in the area. Clause 3.14(3) requires that the District Plan is consistent with this clause.
465. Notably, clause 3.14 applies to existing plantation forestry only. There are no provisions in the NPS-IB for new plantation forestry, indicating that these should be avoided in accordance with clause 3.10.
466. I note that the National Environmental Standard for Commercial Forestry sets out a framework for plantation forestry including new plantation forestry. With respect to SNAs, the NES-CF states that rules in a District Plan can be more restrictive to protect indigenous biodiversity.
467. My preferred outcome for which I have no submission scope is to delete ECO-O4 in its entirety on the basis that its intent is already covered by ECO-O3, using the same logic that there need not be a specific objective for each type of activity which may have an inappropriate effect. This is the same reasoning for which I have recommended the deletion of notified ECO-O2.

468. In the absence of scope, I consider that the retention of notified ECO-O4 is appropriate. It sets an expectation that the effects of new plantation forestry within a SNA should be avoided, and existing plantation forestry managed, within the policy and rule framework that follows.
469. On this basis I recommend that the submissions in support of ECO-O3 [221.34, 290.36, 345.185, 488.51, 377.118] are accepted.
470. I recommend minor and inconsequential changes be made to the capitalisation of significant natural areas in the objective.

Summary of recommendations

471. **HS11-ECO-Rec23:** That ECO-O3 (Significant natural areas are protected from the adverse effects of plantation forestry activities) is retained as notified, with consequential renumbering.
472. **HS11-ECO-Rec24:** That submission points in relation to ECO-O3 (Significant natural areas are protected from the adverse effects of plantation forestry activities) are accepted as set out in Appendix B.

11.7 ECO-O4: Significant natural areas are maintained or restored by mana whenua in accordance with kaitiakitanga

Matters raised by submitters

473. Tyers Stream Group [221.35], Kilmarston [290.37] (noting that this should not apply to areas earmarked for public access or roads), Forest and Bird [345.186] and WCCERG [377.119] support ECO-O4 and seek that the objective is retained as notified.
474. GWRC [351.152] seeks to amend the wording of ECO-O4 for consistency with ECO-O1. The change sought by the submitter is as follows:

ECO-O4 - Significant natural areas are ~~maintained~~ protected or restored by mana whenua in accordance with kaitiakitanga

Assessment

475. ECO-O4 relates to kaitiakitanga of SNAs by mana whenua and seeks to give effect to objective 1(a) and 1(b)(i) of the NPS-IB. The stated objective at 1(a) is “to maintain indigenous biodiversity...” with 1(b)(i) recognising that tangata whenua have a role as kiatiaki. This leads to policy 2, and sets a pathway for the development of bespoke planning frameworks for indigenous biodiversity on Māori land in partnership with

tangata whenua and landowners (clause 3.18). Clause 3.18(1)(a) refers to maintenance and restoration of indigenous biodiversity on such land, whereas 3.18(1)(b) requires the protection of SNAs and identified taonga.

476. I agree that it may be appropriate within ECO-O4 to use the word 'protect' rather than 'maintain', as requested by GWRC [351.152]. I also note that kaitiakitanga implies protection, rather than maintenance.
477. However, I note that neither Taranaki Whānui, Ngāti Toa Rangatira nor any other submitter, have made a further submission supporting this requested change. As discussed at section 6 of this section 42A report, the NPS-IB includes a number of specific requirements about working with mana whenua to develop planning provisions in partnership and I recommend that this work be deferred to a later plan change to allow for a more fulsome process to be followed.
478. I envisage that further changes to the ECO chapter will follow as a result of that process and therefore recommend that ECO-O4 is retained as notified at present.
479. I recommend minor and inconsequential changes be made to the capitalisation of significant natural areas in the objective.

Summary of recommendations

480. **HS11-ECO-Rec25:** That ECO-O4 (Significant natural areas are maintained or restored by mana whenua in accordance with kaitiakitanga) is retained as notified.
481. **HS11-ECO-Rec26:** That submission points in relation to ECO-O4 (Significant natural areas are maintained or restored by mana whenua in accordance with kaitiakitanga) are accepted/rejected as set out in Appendix B.

11.8 ECO-P1: Protection of significant natural areas

Matters raised by submitters

482. Tyers Stream Group [221.36], Horokiwi Quarries Limited [271.22], Aggregate and Quarry Association [303.14] and Paul M Blaschke [435.8] support ECO-P1 and seek that the policy is retained as notified.
483. Transpower [315.163] supports ECO-P1 and seeks it is retained as notified, subject to the deletion of the cross-references to this policy within INF-ECO-P36 and INF-ECO-P37.
484. Meridian [228.72, 228.73] opposes the policy in part and seeks that this is amended on the basis that the mitigation hierarchy within the policy should focus biodiversity and

compensation initiatives at adverse effects that are more than minor (not all residual adverse effects). The changes sought by the submitter are as follows:

ECO-P1- Protection of significant natural areas

Protect the biodiversity values of the identified significant natural areas within SCHED8 by requiring subdivision, use and development to:

1. Avoid adverse effects on indigenous biodiversity values where practicable;
2. Minimise adverse effects on the biodiversity values where avoidance is not practicable;
3. Where practicable, Remedy adverse effects on the biodiversity values where they cannot be avoided or minimised;
4. Where residual adverse effects cannot be avoided, mitigated or remedied, Only consider biodiversity offsetting for any residual adverse effects that are more than minor cannot otherwise be avoided, minimised or remedied and where the principles of APP2 – Biodiversity Offsetting are met; and
5. Only If biodiversity offsetting of more than minor residual adverse effects is not practicable, consider biodiversity compensation after first considering biodiversity offsetting and where the principles of APP3 – Biodiversity Compensation are met.

485. Forest and Bird [345.187, opposed by Meridian FS101.129] has a number of concerns in relation to ECO-P1 and seeks amendments as follows:
- a. It is currently not clear that ECO-P5 would apply as a first step in the coastal environment. As such, a specific clause is required in ECO-P1.
 - b. In their view the SNA provisions should apply to any area of significant biodiversity that meets the Policy 23 RPS criteria, as there may be such areas that are not included in Schedule 8. This would include the Urban Development Allotments identified in Appendix 9 to the DDP (ie the SNAs on residential land).
 - c. The effects management hierarchy in ECO-P1 only requires for avoidance of effects ‘where practicable’. In the submitter’s view this low standard is not sufficient to ensure the requirements of the RMA (including s6 and s31) are met, and some effects must be avoided in order to meet these requirements.
 - d. The policy should refer to mitigating, rather than minimising adverse effects.
 - e. Biodiversity compensation is not supported and clause 7 of the policy should be deleted.

ECO-P1- Protection of significant natural areas

Protect the biodiversity values of the identified significant natural areas within SCHED8 by requiring subdivision, use and development to:

1. Avoid adverse effects on indigenous biodiversity in the coastal environment to the extent stated in ECO P5;
2. Avoid the following adverse effects on indigenous biodiversity values:
 - a. Loss of ecosystem representation and extent;
 - b. Disruption to sequences, mosaics or ecosystem function;
 - c. Fragmentation or loss of buffering or connectivity within the SNA and between other indigenous habitats and ecosystems; and
 - d. A reduction in population size or occupancy of threatened species using the SNA for any part of their life cycle.
3. Avoid ~~other~~ adverse effects on indigenous biodiversity values where practicable;
4. ~~Minimise~~ Mitigate adverse effects on the biodiversity values where avoidance is not practicable;
5. Remedy adverse effects on the biodiversity values where they cannot be avoided or mitigated ~~minimised~~;
6. Only consider biodiversity offsetting for any residual adverse effects that cannot otherwise be avoided, mitigated ~~minimised~~ or remedied and where the principles of APP2 – Biodiversity Offsetting are met; and
7. ~~Only consider biodiversity compensation after first considering biodiversity offsetting and where the principles of APP3 – Biodiversity Compensation are met.~~

486. GWRC [351.153, opposed by Meridian FS101.130] seeks that ECO-P1 is amended to delete the words ‘where practicable’ from subclause 1 as this is restated in clause 2:

ECO-P1- Protection of significant natural areas

Protect the biodiversity values of the identified significant natural areas within SCHED8 by requiring subdivision, use and development to:

1. Avoid adverse effects on indigenous biodiversity values where practicable;

...

487. WCCERG [377.120, opposed by Meridian FS101.131, the Retirement Villages Association of New Zealand Incorporated FS126.216 and Ryman Healthcare Limited FS128.216] seeks that clause 3 of the policy is either clarified to state how remedying of effects may exist or it be deleted in its entirety. Additionally, WCCERG [377.121, opposed by Meridian FS101.132, The Retirement Villages Association of New Zealand Incorporated FS126.217 and Ryman Healthcare Limited FS128.217] seeks the deletion

of clause 5 of the policy.

488. The Director-General of Conservation [385.40, 385.41 supported by Meridian FS101.13] opposes ECO-P1 in its current form and seeks that this is amended to be consistent with the exposure draft of the NPS-IB. The submitter has not recommended any specific wording.

Assessment

489. In my assessment of New *Ecosystems and Indigenous Biodiversity Provisions* at Section 11.2 I have explained the requirements of the effects management hierarchy.
490. The intent of notified ECO-P1 was to incorporate the effects management hierarchy. It was also the primary policy for the assessment of effects on SNAs.
491. Given that the NPS-IB is now in effect and that the effects management hierarchy it details is clear, in my view the best approach is to align the wording of ECO-P1 with the definition provided in clause 1.6 of the NPS-IB and amend the policy accordingly.
492. As I have also noted in Section 11.2 the hierarchy is used for specific purposes:
- a. For effects on a SNA not otherwise specified in clause 3.10; and
 - b. For those specific activities that are able to use an effects management hierarchy to manage their effects 'as of right' instead of the avoidance directives of clause 3.10.
493. I recommend that this be reflected in the policy chapeau and those relevant policies referenced.
494. I note that the effects management hierarchy is also used for the management of significant effects on indigenous biodiversity outside of SNAs (New ECO-P8), and Coastal SNAs (notified ECO-P5 now renumbered ECO-P6) but I do not think that these need to also be reflected in the chapeau. In my view it is cleaner that both these issues be dealt with comprehensively in their own policies. I have recommended clear references to this now renumbered ECO-P5 (effects management hierarchy) for wayfinding.
495. On this basis, my recommendations on the submission points are as follows:
- a. The submission points from the Director-General of Conservation are accepted as the relief sought is achieved [385.40, 385.41 supported by FS101.13].
 - b. The submission points in support of ECO-P1 are accepted in part, on the basis that the policy is retained but with amended wording [221.36, 271.22, 303.14, 435.8, 315.163].
 - c. The submission points from Meridian and GWRC are accepted in part, where insofar as the relief sought is partially achieved through the amended wording [228.72, 228.73, 351.153 opposed by FS101.130].

- d. The submission points from Forest and Bird largely do not align with the NPS-IB definition and should therefore be rejected [345.187, opposed by Meridian FS101.129] and WCCERG [377.120 opposed by FS101.131, FS126.216 and FS128.216; and 377.121 opposed by FS101.132, FS126.217 and FS128.217].
496. In addition to the amended wording of the effects management hierarchy policy, I recommend the following changes:
- a. Renumbering of the policy, with a consequential renumbering of all policies and rules in the ECO and other chapters that reference this policy;
 - b. The removal of the reference to SCHED8 in the chapeau, on the basis that this is addressed by the definition of SNA; and

Summary of recommendations

497. **HS11-ECO-Rec27:** That notified ECO-P1 (Protection of significant natural areas) is amended and the replacement policy renumbered as ECO-P5 as shown below and at Appendix A.

Note that I have shown the amendment of notified ECO-P1 (which is clearest to do as a complete deletion) alongside the insertion of renumbered ECO-P5.

ECO-P5 Effects management hierarchy

Manage any adverse effects of use and development on SNAs that are not referred to in ECO-P1 or that are specified activities in ECO-P2 by applying the effects management hierarchy as follows:

- a. Adverse effects are avoided where practicable; then
- b. Where adverse effects cannot be avoided, they are minimised where practicable; then
- c. Where adverse effects cannot be minimised, they are remedied where practicable; then
- d. Where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided in accordance with APP2 – Biodiversity Offsetting where possible ; then
- e. Where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided in accordance with APP3 – Biodiversity Compensation; then
- f. If biodiversity compensation is not appropriate, the activity itself is avoided.

ECO-P1 Protection of significant natural areas

~~Protect the biodiversity values of the identified significant natural areas within SCHED8 by requiring subdivision, use and development to:~~

- ~~1. Avoid adverse effects on indigenous biodiversity values where practicable;~~
- ~~2. Minimise adverse effects on the biodiversity values where avoidance is not practicable;~~
- ~~3. Remedy adverse effects on the biodiversity values where they cannot be avoided or minimised;~~
- ~~4. Only consider biodiversity offsetting for any residual adverse effects that cannot otherwise be avoided, minimised or remedied and where the principles of APP2—Biodiversity Offsetting are met; and~~
- ~~5. Only consider biodiversity compensation after first considering biodiversity offsetting and where the principles of APP3—Biodiversity Compensation are met.~~

498. **HS11-ECO-Rec28:** That submission points in relation to ECO-P1 (Protection of significant natural areas) are accepted/rejected as detailed at Appendix B.

11.9 ECO-P2: Appropriate vegetation removal in significant natural areas

Matters raised by submitters

499. Tyers Stream Group [221.37], FENZ [273.102] and Paul M Blaschke [435.9] support ECO-P2 and seek that the policy is retained as notified.
500. Transpower [315.164] supports ECO-P2 on the basis this is not applicable to infrastructure. Should the policy apply to infrastructure then it is amended to recognise vegetation removal necessary to enable the safe and efficient operation of the National Grid [315.165]. No suggested wording has been supplied by the submitter.
501. Meridian [228.74, 228.75 supported by WELL FS27.8, opposed by the Director-General of Conservation FS106.11] supports the policy in part and seeks that this is amended on the basis that the removal of vegetation may also be appropriate where this is necessary to provide for the functional or operational needs of regionally significant infrastructure, including vegetation removal around structures. The changes sought by the submitter are as follows:

ECO-P2 - Appropriate vegetation removal in significant natural areas

Enable vegetation removal within significant natural areas identified within SCHED8 where it is of a scale and nature that maintains the biodiversity values, including to provide for:

1. Maintenance around existing buildings and structures; or
2. Safe operation of roads, tracks and access ways; or
3. Functional or operational needs in operating, maintaining, repairing, or upgrading regionally significant infrastructure; or
- ~~3~~ 4. ...

502. The Aggregate and Quarry Association [303.15, opposed by the Director-General of Conservation FS106.12] considers that while ECO-P2 is unlikely to apply to quarry activities, a new sub-point should be added that enables vegetation clearance where there is an existing activity and this is a legal activity.
503. Forest and Bird [345.188, opposed by FENZ FS14.4 and opposed in part by Meridian FS101.134] considers that:
- a. The policy should not start from a point of 'enabling' because this policy will be considered when consenting the listed activities where they are no longer permitted: the matters of discretion for ECO R1.4, 1.5, 2.2, 3.2 refer to this policy;
 - b. It is not clear whether all or some of these references are in error, because of the deletion of some policies just prior to notification;
 - c. It is not appropriate to provide for new roads etc through SNAs as of right, this should be limited to maintenance of existing roads and tracks;
 - d. It is not clear why conservation activities are referred to in this policy. The rules provide for restoration activities, not conservation activities. If 'conservation activities' is to be retained, see submission point on its definition; and
 - e. The list should be exhaustive, so that it only provides for the intended activities.
504. As such, Forest and Bird seeks that the policy is amended as shown below:

ECO-P2 - Appropriate vegetation removal in significant natural areas

~~Consider enabling~~ Enable vegetation removal within significant natural areas identified within SCHED8 where it is of a scale and nature that maintains the biodiversity values, ~~including~~ to provide for:

1. Maintenance around existing buildings; or
2. Safe operation of existing roads, tracks and access ways; or
3. Restoration and conservation activities including plant and animal pest control activities; or
4. Natural hazard management activities; or
5. Reduction of wildfire risk through the removal of highly flammable vegetation near existing residential units on rural property; or
6. Opportunities to enable tangata whenua to exercise customary harvesting practices (excluding commercial use).

505. Ngāti Toa Rangatira [488.52] seeks that ECO-P2 is amended as shown below:

ECO-P2 - Appropriate vegetation removal in significant natural areas

Enable vegetation removal within significant natural areas identified within SCHED8 where it is of a scale and nature that maintains the biodiversity values, including to provide for:

1. Maintenance around existing buildings; or
2. Safe operation of existing roads, tracks and access ways; or
3. Restoration and conservation activities including plant and animal pest control activities; or
4. Natural hazard management activities; or
5. Reduction of wildfire risk through the removal of highly flammable vegetation near existing residential units on rural property; or
6. ~~Opportunities to enable~~ Provide for tangata whenua to exercise customary harvesting practices ~~(excluding commercial use).~~

Assessment

506. The role and purpose of ECO-P2, now that the NPS-IB is in effect is to:

- a. Provide policy direction as to when adverse effects on SNAs are permissible to enable specified established activities to occur (per clause 3.15 of the NPS-IB); and
- b. Reflect where the NPS-IB does not apply to manage adverse effects on SNAs (clause 3.10(6)(a)-(e)).

507. The policy establishes the types of activities which are accordingly permitted in rule ECO-R1 subject to standards. These standards in effect act as a proxy for ensuring their

effects are no greater in intensity, scale, or character and do not result in the loss of extent of degradation of a SNA (clause 3.15(3)).

508. The range of established activities has essentially been set by what has been notified in this policy and the rule ECO-R1.
509. The way in which I have considered these activities and the policy direction in light of the NPS is to:
- a. Remove any references from the policy and ECO-R1 rule to 'new' activities given that established activities cannot be new under clause 3.15(1)(b); and
 - b. Consider whether the scope of submissions gives the ability to add reference to any additional activities which could be considered as established activities.
510. Considering the above, I agree in part with Forest and Bird [345.188, opposed by FENZ FS14.4 and opposed in part by Meridian FS101.134] in respect of subclause 2 where instead of using the word 'existing' I recommend the use of the term 'lawfully established' which is the submitters relief in respect of this matter in ECO-R1.
511. In respect of the Aggregate and Quarry Association [303.15, opposed by FS106.12] - the policy cannot be expanded to provide a pathway for activities that generally have an operational or functional need as the list of activities in ECO-R1 and the higher-level groupings in this policy need to be exhaustive.
512. I do agree in part with the submitter that a new clause be added to the policy in respect of the operation and maintenance of existing quarries. In my assessment of ECO-R1 I have specified compliance with ECO-S2 in recognition that a SNA has been identified within the operational area of the Quarry Zone at Kiwi Point and on the periphery of Horokiwi Quarry. It is my view reasonable, acknowledging the regional significance of such strategic assets, to allow for relatively minor clearance for continued operation and maintenance, but not expansion.
513. Submissions in support are accepted in part, on the basis that ECO-P2 is retained, but with amendments [221.37, 273.102, 435.9, 315.164] support ECO-P2 and seek that the policy is retained as notified.
514. I recommend that Transpower's submission point [315.164] be accepted in part and [315.165] rejected. This chapter does not apply to the national grid. The INF-NG standalone chapter considered as part of Hearing Stream 9 would apply to Transpower's national grid operations.
515. Likewise, I accept Meridian's support of the policy in part [228.74] and reject the requested amendments in respect of infrastructure [228.75 supported by FS27.8,

opposed by FS106.11] given that the REG chapter deals with the submitters assets and SNAs in a standalone manner.

516. Where the relief sought by Forest and Bird is achieved through my recommended changes to the policy, their submission point should be accepted in part [345.188, opposed/opposed in part by FS14.4 and FS101.134]. The drafting language of the plan is to provide certainty for permitted activities through the use of the chapeau 'enable' and I do not recommend doing anything different in respect of this policy.
517. I accept in part the submission point from Ngāti Toa Rangatira [488.52]. I can support removing 'opportunities to enable' as requested by the submitter. The words 'provide for' do not need to be added because the chapeau already ends in provide. That subclause can begin with 'tangata whenua' instead.
518. I also recommend minor and consequential amendments to:
- a. Alter the title and chapeau of the policy to add in the words 'trimming, and pruning', which would make the policy title the same as the associated rule;
 - b. Re-number the policy as a consequence of wider reordering and addition of new policies;
 - c. Remove the reference to 'identified' values consequentially on my recommendation for ECO-P7;
 - d. Remove the reference to SCHED8 as this is contained within the definition of significant natural area; and
 - e. Amend the chapeau to remove the word 'including' because compliance with Clause 3.15 requires that specific types of activities are identified in plans. Accordingly, this means that the rule must contain an exclusive, rather than inclusive list.

Summary of recommendations

519. **HS11-ECO-Rec29:** That ECO-P2 (Appropriate vegetation removal in significant natural areas) is amended and renumbered to be ECO-P5 as shown below and at Appendix A.

ECO-P27 – Appropriate trimming, pruning or vegetation removal in significant natural areas

Enable vegetation trimming, pruning or removal within significant natural areas ~~identified within SCHED8~~ where it is of a scale and nature that maintains ~~the~~ biodiversity values; ~~including~~ to provide for:

1. Maintenance around existing buildings; or
2. Safe operation of lawfully established roads or rail corridors, tracks and access ways; or
3. Restoration and conservation activities including plant and animal pest control activities; or
4. Natural hazard management activities; or
5. Reduction of wildfire risk through the removal of highly flammable vegetation near existing residential units on rural property; or
6. ~~Opportunities to enable t~~angata whenua to exercise customary harvesting practices (excluding commercial use).; or
7. The continued operation and maintenance of quarries for aggregate extraction.

520. **HS11-ECO-Rec30:** That submission points in relation to ECO-P2 (Appropriate vegetation removal in significant natural areas) are accepted/rejected as set out in Appendix B.

Section 32AA evaluation – Notified ECO-P2 amendments

521. I have undertaken a s32AA evaluation because my recommendations have altered the policy approach for the policy and rule framework by:
- a. Modifying the policy approach guiding permitted trimming, pruning and removal of SNAs in respect of continued aggregate extraction.
522. In my opinion, the amendments to modify notified ECO-P2 are more appropriate in achieving the objectives of the PDP and the objective of the NPS-IB than the notified provisions.
523. In particular, I consider that:
- a. The amendments achieve greater alignment with higher order planning documents, namely NPS-IB clause 3.15 in respect of established activities within SNAs. These amendments better recognize the strategic importance of quarries and aggregate resources within the Wellington region (identified in the SCA strategic direction chapter) and provide a more appropriate balance between continued operation of these assets and biodiversity protection.

- b. The risks of not making these amendments is that the continued operation of quarries in the Wellington Region is restricted while the strategic direction of the plan relies in part on their effective operation.

524. Consequently, these amendments are more efficient and effective than the notified provisions in achieving the objectives of the PDP and the objective of the NPS-IB.

525. The environmental, economic, social and cultural costs and benefits of the recommended amendments, as they vary from the existing PDP Evaluation Report, are considered below.

| | |
|----------------------|--|
| Environmental | <p><i>Benefits</i></p> <p>In respect of indigenous biodiversity there are no benefits from the recommended amendments.</p> <p><i>Costs</i></p> <p>A minor amount of SNA would be able to be removed under the associated permitted activity rule, compared to the notified proposal.</p> |
| Economic | <p><i>Benefits</i></p> <p>The economic benefits of the amendments have not been specifically quantified, though are likely to be greater than the notified proposal if they help reduce operational costs for quarry operations where a resource consent would have otherwise been required and those costs passed on to commercial consumers.</p> <p><i>Costs</i></p> <p>None have been identified.</p> |
| Social | <p><i>Benefits</i></p> <p>There may be marginal social benefits from increasing efficiency of quarry operations for the development of the city.</p> <p><i>Costs</i></p> <p>None have been identified.</p> |
| Cultural | <p><i>Benefits</i></p> |

| | |
|--|--|
| | <p>None identified.</p> <p><i>Costs</i></p> <p>Site and Area of Significance to Māori - Waitohi Stream #170 runs through an area of SNA at 137 Centennial Highway, Kiwi Point Quarry. A small width of this SNA would be permitted to be cleared under the proposed rule to implement this policy but not to a width that it would encroach into the site and area itself.</p> <p>No other SASMs or cultural interests have been identified in the quarry sites and as such these costs are expected to be minimal</p> |
|--|--|

11.10 ECO-P3: Subdivision, use and development in significant natural areas

Matters raised by submitters

526. Tyers Stream Group [221.38], Meridian [228.76], Horokiwi Quarries Ltd [271.23], WCCERG [377.122] and Paul M Blaschke [435.10] support ECO-P3 and seek that the policy is retained as notified.
527. The Director-General of Conservation [385.42] seeks that references to ECO-P2 in the policy are amended to refer to ECO-P1.
528. Forest and Bird [345.189, opposed by Meridian FS101.135] considers that:
 - a. The policy should not start from a presumption of allowing activities;
 - b. The policy should also include SNAs in SCHED8, SCHED9 of the DDP and areas that meet Policy 23 criteria that have not yet been defined, as per the relief sought for the SNA definition.
529. Forest and Bird supports ECO-P3.1 (subject to correcting the reference to ECO-P1), ECO-P3.2 and ECO-P3.4 but seeks amendments to the chapeau and ECO-P3. The changes sought by the submitter are shown below:

ECO-P3 - Subdivision, use and development in significant natural areas

Only a Allow for subdivision, use and development in significant natural areas listed in ~~SCHED8~~ where it:

1. Applies the effects management hierarchy approach in ECO-P1 ~~ECO-P2~~; and
2. Demonstrates that it is appropriate, including by taking into account the findings of an ecological assessment for the activity in accordance with APP15; and
3. Ensures the activities effects on biodiversity values are appropriately managed in accordance with the effects management hierarchy, and where residual effects remain after avoiding, remedying or mitigating, to achieve no net loss of biodiversity values of the ~~identified~~ significant natural area; and
4. Ensures that the ecological processes, functions and integrity of the significant natural area are maintained.

Assessment

530. As detailed at section 11.4, the NPS-IB contains an avoidance and effects management hierarchy framework through clauses 3.10/3.11 which generally seeks the adverse effects of new subdivision, use and development on SNAs be avoided and the effects management hierarchy be used only for additional effects or for specific activities.
531. This approach is fundamentally incompatible with notified ECO-P3.
532. Having introduced two new policies to reflect the NPS-IB framework (*New ECO-P3 Avoiding adverse effects on significant natural areas* and *New ECO-P4 Specific activities to use effects management hierarchy*) notified ECO-P3 is redundant and needs to be removed.
533. Considering this, all submissions seeking the policy be retained as notified or amended should be rejected based on this deletion.

Summary of recommendations

534. **HS11-ECO-Rec31:** That notified ECO-P3 (Subdivision, use and development in significant natural areas) is deleted.
535. **HS11-ECO-Rec32:** That submission points in relation to ECO-P3 (Subdivision, use and development in significant natural areas) are accepted/rejected as set out in Appendix B.

Section 32AA evaluation

536. This amendment is addressed in the s32Aa evaluation contained in section 11.2 with respect to implementing the NPS-IB.

11.11 ECO-P4: Protection and restoration initiatives

Matters raised by submitters

- 537. Tyers Stream Group [221.39] and Forest and Bird [345.190] support ECO-P4 and seek that the policy is retained as notified.
- 538. Meridian [228.77] supports the policy in part, provided their requested amendments to ECO-P1 are adopted.
- 539. Paul Van Houtte [92.1] seeks that the policy is amended to restrict the free roaming of cats, as these kill native birds and lizards, and spread toxoplasmosis.
- 540. Victoria University of Wellington Students' Association [123.41] seeks that the policy is amended to allow for the practice of rāhui to be implemented when there is a threat to biodiversity from human activity. In the submitter's view this is an important addition as rāhui is an important part of Māori conservation practice and will allow certain protected species to thrive and be free from human interference for brief periods when there may be a threat of particular vulnerability.
- 541. WCCERG [377.123, supported by Steve West FS110.20 and Ngāti Toa Rangatira FS138.27] supports the policy in part, but seeks the following amendment:

ECO-P4 - Protection and restoration initiatives

Encourage the protection, restoration and maintenance of indigenous biodiversity by:

1. Providing for mana whenua to exercise their responsibilities as kaitiaki to protect, restore and maintain areas of indigenous biodiversity; and
2. Providing for the Karori Sanctuary Trust to exercise their strategy to protect and restore the Zealandia sanctuary in accordance with their long term strategy; and
3. Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of indigenous vegetation- ; and
4. Where possible, recognise and assist with the financial costs associated with protection and restoration initiatives incurred by mana whenua, landowners and community groups.

Assessment

- 542. There are three policies in the NPS-IB concerned with the protection and restoration of indigenous biodiversity.

Policy 2: *Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:*

- (a) managing indigenous biodiversity on their land; and*
- (b) identifying and protecting indigenous species, populations and ecosystems that are taonga; and*
- (c) actively participating in other decision-making about indigenous biodiversity.*

Policy 7: *SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.*

Policy 13: *Restoration of indigenous biodiversity is promoted and provided for.*

543. Clause 3.21 specifically requires that the District Plan includes objectives, policies, and methods to promote the restoration of indigenous biodiversity and clause 3.21(2) stating that these provisions must prioritise all of the following areas:

SNAs whose ecological integrity is degraded:

- a. threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:*
- b. areas that provide important connectivity or buffering functions:*
- c. natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:*
- d. areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners:*
- e. any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.*

544. Clause 3.21(3) also requires that:

“local authorities must consider providing incentives for restoration in priority areas referred to in subclause (2), and in particular where those areas are on specified Māori land, in recognition of the opportunity cost of maintaining indigenous biodiversity on that land”

545. In my view ECO-P4 is consistent with the NPS-IB requirements to promote and provide for the protection and restoration of SNAs, including through giving direction to the permitted activity status for restoration activities in ECO-P3.

546. Considering clause 3.21 I consider that a non-statutory method is the most appropriate way to identify and prioritise areas for restoration. I have reached this conclusion after noting that the RPS-PC1 recommended provisions include a method to do so in partnership with territorial authorities and mana whenua (*Policy IE.3: Maintaining, enhancing, and restoring indigenous ecosystem health – non-regulatory*).

547. Given the high level of community interest in the restoration of the city's indigenous biodiversity and a record of some notable successes (ie Zealandia) I can see merit in raising awareness of this requirement of the NPS-IB in the district plan. This method can also include a reference to the promotion of the resilience of indigenous biodiversity to climate change (policy 4 of the NPS-IB).
548. In respect of considering incentives (clause 3.21(3)) and in relation to WCCERG [377.123, supported by Steve West FS110.20 and Ngāti Toa Rangatira FS138.27], as discussed in section 8.1 I agree there is merit in supporting landowners and community groups with financial incentives, but this is a process outside of the control of the District Plan. Ultimately no incentives can be offered until such time as these are approved in a Long Term Plan or Annual Plan. This work has to date been deferred. Therefore, while the submission points seeking recognition of, and assistance with, financial costs associated with protection and restoration initiatives are acknowledged, I recommend that these are rejected and no amendments to the policy are made at this time [WCCERG, 377.123 supported by FS110.20 and FS138.27].
549. In respect of Paul Van Houtte [92.1] I do not consider the District Plan to be the appropriate vehicle for regulating roaming cats. The Council has recently updated, and occasionally reviews, the [Animal Bylaw 2024](#), which is a more appropriate place to consider this issue. I recommend the submission point is rejected.
550. I note that neither mana whenua partner has submitted in support or opposition of Victoria University of Wellington Students' Association [123.41]. Considering this I do not feel able to support adopting the relief and suggest this matter be noted for consideration in the Te Ao Māori plan change. I recommend the submission point is rejected.
551. Submissions in support should be accepted in part [221.39, 345.190, 228.77].

Summary of recommendations

552. **HS11-ECO-Rec33:** That ECO-P4 (Protection and restoration initiatives) is confirmed as notified as shown in Appendix A.
553. **HS11-ECO-Rec34:** That a new non-statutory method be introduced as shown below and in Appendix A.

| Method | |
|---------------|---|
| ECO-M1 | <u>The Wellington City Council and Greater Wellington Regional Council will work in partnership with mana whenua and in collaboration with landowners, communities, and other stakeholders to prioritise the following areas for restoration:</u> |

| | |
|--|---|
| | <p><u>(a) Significant natural areas whose ecological integrity is degraded;</u></p> <p><u>(b) Threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems;</u></p> <p><u>(c) Areas that provide important connectivity or buffering functions;</u></p> <p><u>(d) Natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna;</u></p> <p><u>(e) Areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners; and</u></p> <p><u>(f) Any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.</u></p> <p><u>This work will identify opportunities to promote the resilience of indigenous biodiversity to climate change.</u></p> |
|--|---|

554. **HS11-ECO-Rec35:** That submission points in relation to ECO-P4 (Protection and restoration initiatives) are accepted/rejected as set out in Appendix B.

Section 32AA evaluation – New method – ECO-M1

555. I have undertaken a s32AA evaluation because my recommendations have altered the policy approach for the policy and rule framework by:
- a. Introducing a new method to implement clause 3.21 of the NPS-IB.
556. In my opinion, the amendments to include this new method are more appropriate in achieving the objectives of the PDP and the objective of the NPS-IB than the notified provisions.
557. In particular, I consider that:
- a. The addition of the method achieves greater alignment with higher order planning documents, namely the NPS-IB policy 4, clause 3.21 and RPS-PC1 policy IE.3.
 - b. Considering Policy IE.3 proposes a non-statutory method to implement this clause there is a low risk of acting.
558. Consequently, these amendments are more efficient and effective than the notified provisions in achieving the objectives of the PDP and the objective of the NPS-IB.
559. The environmental, economic, social and cultural costs and benefits of the recommended amendments, are the same as those identified in the existing PDP Evaluation Report

11.12 ECO-P5: Significant natural areas within the coastal environment

Matters raised by submitters

560. Tyers Stream Group [221.40], WCCERG [377.124] and the Director-General of Conservation [385.43] support ECO-P5 and seek that this is retained as notified.
561. Meridian [228.78, 228.79] supports the policy in part, noting it gives effect to the NZCPS. The submitter seeks that the policy is amended as follows:

ECO-P5 - Significant natural areas within the coastal environment

Only allow activities within an identified significant natural area within SCHED8 in the coastal environment where it can be demonstrated that they;

1. Avoid adverse effects on the matters in Policy 11(a) of the New Zealand Coastal Policy Statement 2010;
2. Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on the matters in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; and
3. Protects ~~the other~~ indigenous biodiversity values in accordance with ECO-P1 ~~ECO-P2~~.

562. Forest and Bird [345.191, opposed by Meridian FS101.136] considers that ECO-P5 should:

- a. Cross reference to ECO-P1 and not ECO-P2;
- b. Apply to all zones, including residential zones;

The changes sought by the submitter are shown below:

ECO-P5 - Significant natural areas within the coastal environment

Only allow activities within ~~an identified~~ significant natural area ~~within SCHED8~~ in the coastal environment where it can be demonstrated that they;

1. Avoid adverse effects on the matters in Policy 11(a) of the New Zealand Coastal Policy Statement 2010;
2. Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on the matters in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; and
3. Protects ~~the other~~ indigenous biodiversity values in accordance with ECO-P1 ~~ECO-P2~~.

563. Horokiwi Quarries Ltd [271.24, opposed by the Director-General of Conservation FS106.13] opposes ECO-P5 on the basis that they seek an amendment to the SNA overlay as it relates to the Horokiwi Quarry site.

Assessment

564. Clause 1.4 of the NPS-IB clarifies that both the NZCPS and NPS-IB apply to SNAs within the coastal environment.
565. Policy 11 of the NZCPS is the most relevant consideration in guiding the policy framework for the district plan for coastal SNAs.
566. I agree with Forest and Bird [345.191, opposed by Meridian FS101.136] and Meridian [228.78, 228.79] that notified ECO-P2 is incorrectly referenced in the policy. Having considered the intent of the policy it is reasonably apparent that the reference was supposed to be to ECO-P1 in relation to the effects management hierarchy.
567. Considering this, and on the basis that relevant RPS-PC1 recommendation (*Policy 24C: Managing adverse effects on indigenous biodiversity values in the coastal environment – district and regional plans*) is to clearly link to the effects management hierarchy of the NPS-IB for managing other effects, I recommend the same be done for subclause clause 3. I accept these submissions in part.
568. For the same reasons as discussed in my assessment of notified ECO-P7, I recommend the deletion of the words ‘an identified’ be consequentially removed and ‘within SCHED8’ from the chapeau of ECO-P5 as requested by Forest and Bird [345.191, supported by FS101.136]. I accept that submission in part.
569. I do not recommend any changes to ECO-P5 as a result of the submission point from Horokiwi Quarries Ltd [271.24, opposed by the Director-General of Conservation FS106.13]. Their concerns in relation to the extent of the SNA on the quarry site have been addressed at section 8.2 of this report.

Summary of recommendations

570. **HS11-ECO-Rec36:** That ECO-P5 (Significant natural areas within the coastal environment) is amended as shown below and at Appendix A:

ECO-P~~5~~6 Significant natural areas within the coastal environment

Only allow activities within significant natural area ~~within SCHED8~~ in the coastal environment where it can be demonstrated that they;

1. Avoid adverse effects on the matters in Policy 11(a) of the New Zealand Coastal Policy Statement 2010;
2. Avoid significant adverse effects ~~and avoid, remedy or mitigate other adverse effects~~ of activities on the matters in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; and
3. ~~Manage other adverse effects accordance with the effects management hierarchy at ECO-P5:~~
4. ~~Protects the indigenous biodiversity values in accordance with ECO-P2.~~

571. **HS11-ECO-Rec37:** That submission points in relation to ECO-P5 (Significant natural areas within the coastal environment) are accepted/rejected as set out in Appendix B.

11.13 ECO-P6: New plantation forestry

Matters raised by submitters

572. Tyers Stream Group [221.41], Forest and Bird [345.192] and WCCERG [377.125] support ECO-P6 and seek that this is retained as notified.

Assessment

573. The application of the NPS-IB to plantation forestry is set out at section 11.6 in respect of ECO-O3 above, where I note that clause 3.14 primarily relates to existing plantation forestry.
574. As new plantation forestry is not provided for in the NPS-IB, this falls under clause 3.10 and effects must be avoided.
575. Given this context, I consider that ECO-P6 is appropriate in that it requires that new plantation forestry activities are avoided.
576. I therefore recommend the submission points in support of the policy are accepted [221.41, 345.192, 377.125].
577. For consistency with my recommendations in relation to ECO-P3 and ECO-P5 above, I recommend the word 'identified' is deleted.

Summary of recommendations

578. **HS11-ECO-Rec38:** That ECO-P6 (New plantation forestry) is amended as shown below and at Appendix A.

ECO-P~~6~~10- New plantation forestry

Avoid the establishment of new plantation forestry within ~~identified~~ significant natural areas.

579. **HS11-ECO-Rec39:** That submission points in relation to ECO-P6 (New plantation forestry) are accepted/rejected as set out in Appendix B.

11.14 ECO-P7: Existing plantation forestry

Matters raised by submitters

580. Tyers Stream Group [221.42] supports ECO-P7 and seek that this is retained as notified.
581. Forest and Bird [345.193] opposes ECO-P7 on the basis that it is not clear what activities the provision provides for. The submitter notes that they may be able to support such a policy if this was clarified. Furthermore, they seek that if the policy is retained it is amended [345.194]. The change sought is shown below:

ECO-P7 – Existing plantation forestry

Provide for existing plantation forestry and associated activities where these maintain or restore the ~~identified~~ biodiversity values of significant natural areas.

Assessment

582. I note my commentary on the relevant clauses of the NPS-IB in respect of plantation forestry.
583. With respect to the submissions, I disagree with Forest and Bird [345.193] that it is not clear what 'existing plantation forestry activities' covered by ECO-P7 would be, and the policy should be deleted. In a plain sense this is forestry that has already been established prior to the rule becoming operational, typically as a permitted activity, through a resource consent or under the NES-CF.
584. In respect of 'identified values' I recognise that it is best practice that values are established, assessed and understood before scheduling something in a district plan. Despite this there may be additional values present within a SNA not observable from a desktop study or which change overtime as a SNA regenerates. Given this I consider

that it is beneficial to remove this word except that the use of the word ‘identified’ limits the scope of biodiversity values that can be maintained and restored, and recommend that submission point 345.194 is accepted. This change should be consequentially made throughout the chapter.

Summary of recommendations

585. **HS11-ECO-Rec40:** That ECO-P7 (Existing plantation forestry) is amended as shown below and at Appendix A.

ECO-P~~7~~11 – Existing plantation forestry

Provide for existing plantation forestry and associated activities where these maintain or restore the ~~identified~~ biodiversity values of significant natural areas.

586. **HS11-ECO-Rec41:** That submission points in relation to ECO-P7 (Existing plantation forestry) are accepted/rejected as set out in Appendix B.

11.15 ECO-R1: Trimming, pruning or removal of vegetation within a significant natural area

Matters raised by submitters

587. Tyers Stream Group [221.43] supports ECO-R1 and seeks that this is retained as notified.
588. Zealandia Te Māra a Tāne [486.1] supports ECO-R1.a.vi and seeks that this is retained as notified.
589. Oliver Sangster [112.11] seeks that ECO-R1 is amended to strike a balance to ensure that people can tend to bush in close proximity to residential buildings and to account for damage resulting from tree roots. The submitter has not requested any specific wording.
590. Steve West [2.9] considers that ECO-R1 is too restrictive as native trees can grow over 15m tall and are not suited to small plots of urban land. In the submitter’s view the rule does not account for regular trimming, which is important for maintaining bush in an urban environment. He has not requested any specific amended wording.
591. Peter Kelly [16.3] considers that Councillors have a democratic mandate to balance the interests of residents against the important natural environment values represented by significant SNAs. The submitter seeks that if SNAs are included on residentially zoned land, then ECO-R1 is amended as follows:

ECO-R1 – Trimming, pruning or removal of vegetation within a significant natural area

2. Activity status: **Permitted**

Where:

- a. The trimming or removal of vegetation is to:
 - i. Construct new perimeter fences for stock or pest animal exclusion from areas or maintenance of existing fences provided the trimming or removal of any vegetation does not exceed 2m in width; or
 - ii. Maintain an existing farm drain, septic tank disposal field, or constructed stormwater management or treatment device; or
 - iii. To create a firebreak within 10m of an external wall or roof of a residential unit that existed at ~~18 July 2022~~ **1 July 2027**; or
 - iv. Maintain, upgrade or create a new access track for agricultural, pastoral or horticultural activities in accordance with ECO-S3.

592. Peter Kelly [16.4] also seeks that ECO-R1 is amended to include the following clause if SNAs are to apply to private residential land:

c) where trimming or removal of vegetation is required to allow subdivision approved under SUB R-1 within a Significant Natural Area that minimises vegetation loss.

593. Horokiwi Quarries Limited [271.25, 271.26] considers that the activity status for works within a SNA outside the coastal environment that are not provided for within ECO-R1.1 or ECO-R1.2, is not clear as ECO-R1.4, ECO-R1.5 and ECO-R1.6 all apply to vegetation within the coastal environment, while ECO-R1.3 only applies to certain activities. The submitter considers the rule is open to interpretation and seeks the following:

- a. Clarification of the activity status for trimming, pruning or removal of vegetation within a SNA that is not within the Coastal Environment and does not comply with ECO-R1.1 or ECO-R1.2; and
- b. A change to the activity status at ECO-R1.6 from Non-complying to Discretionary, if amendments sought to the areas identified as SNAs (as outlined in Appendix C of the submission) and amendment to the Coastal Environment Boundary (as identified in Appendix D of the submission) are not accepted.

594. FENZ [273.103, 273.104] supports ECO-R1 in part, but seeks that the rule is amended to provide for vegetation clearance where FENZ is required to remove the vegetation for the purposes of extinguishing or preventing the spread of fire, or where FENZ has served a notice requiring the vegetation is removed for a firebreak. The change requested by the submitter is as follows:

ECO-R1 – Trimming, pruning or removal of vegetation within a significant natural area

1. Activity Status: **Permitted**

Where:

a. The trimming, pruning or removal of vegetation is to:

- i. Ensure the operation of any formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or
- ii. Enable flood protection or natural hazard control where undertaken by a Regional or Territorial Authority or agents on their behalf as part of natural hazard mitigation works; or
- iii. Comply with section 43 or 64 of the Fire and Emergency Act 2017; or
- iv. Enable tangata whenua to exercise Customary Harvesting (hauhake); or
- v. Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation and ECO-S1 is complied with; or
- vi. Enable the ongoing restoration work within the Zealandia sanctuary where undertaken by the Karori Sanctuary Trust; or
- vii. To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by the Department of Conservation, a Regional or Territorial Authority, or their approved contractor, and in accordance with ECO-S2- ; or
- viii. It is necessary to avoid the loss of life, injury or serious damage to property, including from the risk of fire.

595. Forest and Bird:

- a. Supports that the rules under ECO-R1 apply to ‘vegetation’ within SNAs, not only indigenous vegetation [345.195, supported in part by Meridian FS101.137, opposed by Steve West FS110.8]. In their view this is appropriate because exotic vegetation can provide significant habitat, and also can contribute to the ecosystem functioning of the SNA.
- b. Seeks that Council consider whether any activities should be permitted in residential areas, given their submission that residential SNAs must be reinserted [345.196, opposed by Steve West FS110.11].
- c. Considers that the rule should also apply to ‘lawfully established’ public roads [345.197].
- d. Considers that new fences can involve the clearing of very large amounts of significant vegetation, and without some kind of limit, this activity is not appropriate as a Permitted Activity and should be a Discretionary Activity. Additionally, it should be clarified that the 2 metre limit is the total clearance

allowed (rather than 2 m on either side of the fence), clause (ii) should also include a limit, that the removal/trimming is only what is strictly necessary and clause (iv) applying to new access tracks should be a Discretionary Activity [345.198].

- e. Considers the activity has the potential to remove large amounts of significant vegetation or habitat, even where the ECO-S4 is applied and is not appropriate to be a Controlled activity as the Council will not be able to refuse consent regardless of the effects. The submitter seeks a higher activity status to align with policy 11 NZCPS [345.199].
- f. Seeks that ECO-R1.5 refers to policy 11 of the NZCPS in its entirety [345.200].
- g. Seeks that the incorrect reference to ECO-P2 is corrected [345.201].
- h. Supports the Non-complying activity status at ECO-R1.6, but opposes the application of this rule being limited to policy 11(a) NZCPS situations as the non-complying status should also apply where policy 11(b) is engaged [345.202]. The submitter also opposes the application of the effects management hierarchy in ECO-P1 applying to biodiversity that is required to be protected in accordance with policy 11(a) or 11(b) of the NZCPS as the policy requires that significant adverse effects are avoided, whereas ECO-P1 only requires avoidance of adverse effects where practicable. The submitter also seeks that the rule is clear that ECO-P5 applies as a first step for these activities.

596. The changes sought by Forest and Bird are shown below:

ECO-R1 – Trimming, pruning or removal of vegetation within a significant natural area

1. Activity Status: **Permitted**

Where:

- a. The trimming, pruning or removal of vegetation is to:
- i. Ensure the operation of any lawfully established formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or
 - ii. Enable flood protection or natural hazard control where undertaken by a Regional or Territorial Authority or agents on their behalf as part of natural hazard mitigation works; or
 - iii. Comply with section 43 or 64 of the Fire and Emergency Act 2017; or
 - iv. Enable tangata whenua to exercise Customary Harvesting (hauhake); or
 - v. Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation and ECO-S1 is complied with; or
 - vi. Enable the ongoing restoration work within the Zealandia sanctuary where undertaken by the Karori Sanctuary Trust; or
 - vii. To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by the Department of Conservation, a Regional or Territorial Authority, or their approved contractor, and in accordance with ECO-S2.

ECO-R1 – Trimming, pruning or removal of vegetation within a significant natural area

2. Activity status: **Permitted**

Where:

- a. The trimming or removal of vegetation is to:
 - i. ~~Construct new perimeter fences for stock or pest animal exclusion from areas or~~ Maintenance of existing fences for stock or pest animal exclusion provided the trimming or removal of any vegetation does not exceed 2m in width (ie 1 m either side of the fence); or
 - ii. Maintain an existing farm drain, septic tank disposal field, or constructed stormwater management or treatment device, provided that the removal or trimming is limited to that which is necessary for the maintenance; or
 - iii. To create a firebreak within 10m of an external wall or roof of a residential unit that existed at 18 July 2022; or
 - iv. ~~Maintain, upgrade or create a new~~ an access track for agricultural, pastoral or horticultural activities in accordance with ECO-S3.

5. Activity Status: **Restricted Discretionary**

Where:

- a. Compliance with any of the requirements of ECO-R1.2 cannot be achieved; and
- b. The significant natural area does not contain any matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.

Matters of discretion are:

1. The matters in ~~ECO-P1 ECO-P2~~, ECO-P3 and ECO-P4; and
 2. The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard.
- ...

6. Activity status: **Non Complying**

Where:

- a. Compliance with the requirements of ECO-R1.1 or ECO-R1.2 or ECO-R1.4 cannot be achieved; and
- b. The significant natural area includes matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.

Note: in addition the following change is required to the Section 88 information requirements section under both ECO-R1.5 and ECO-R1.6:

Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:

1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and
2. Demonstrating that ~~ECO-P5 has first been met, and the~~ effects management hierarchy at ~~ECO-P1 ECO-P2~~ ECO-P5 has been applied to the other adverse effects.

597. WCCERG [377.126, opposed by the Retirement Villages Association of New Zealand FS126.218 and Ryman Healthcare FS128.218, and 377.127 opposed by the Retirement Villages Association of New Zealand FS126.219 and Ryman Healthcare FS128.219] supports ECO-R1 in part, but seeks that the activity status under ECO-R1.4 and ECO-R1.5 are amended from Restricted Discretionary to Non-complying.

Assessment

598. ECO-R1 is the primary rule of the notified chapter concerned with the trimming, pruning or removal of vegetation within SNAs.
599. As drafted ECO-R1 permits the trimming, pruning or removal of vegetation for a number of activities before cascading to a variety of different activity statuses depending on the subclause of the permitted activity status not met.
600. In the context of implementing the NPS-IB I have reviewed the activities listed in the notified rule and submissions on the permitted activity step to establish whether they:
- a. Are exempted from the avoid directive of clause 3.10 of the NPS-IB through clause 3.10(6); or
 - b. Should be considered as 'established activities' under clause 3.15; or
 - c. Should be newly added in response to submissions as 'established activities'.
601. Where this is the case, these activities can remain permitted under ECO-R1. Where this is not the case, these activities cannot be permitted under ECO-R1 and are instead addressed by a subsequent resource consent step in the rule.

Notified permitted activity step R1.1 – All zones

Subclause 1(a)(i)

602. This clause is concerned with the operation of roading, rail corridors and accessways, taking its direction from renumbered ECO-P7(2). Forest and Bird [345.197] have submitted that the term 'lawfully established' be added which I recommend be adopted for clarity and consistency with this amendment I have made for renumbered ECO-P7.

Subclauses 1(a)(ii)-(v)

603. These clauses concerned with hazard and risk mitigation or customary use are consistent with the exemptions provided in clause 3.10(6) and in my view should

remain.

Subclause 1(a)(vi)

604. This subclause is concerned with restoration in respect of Zealandia ecosanctuary. I consider that this subclause is appropriate given the directives to promote restoration of SNAs under clause 3.21. Zealandia has in my view demonstrated the ability to comprehensively manage its activities to impactfully contribute to indigenous biodiversity restoration positively with citywide impact such that this subclause should remain. There are no submissions in opposition.

Subclause 1(a)(vii)

605. This subclause is concerned with the maintenance and repair of walking and cycling tracks by DoC or a council. Given that DoC are exempted from the requirements of the avoidance and effects management frameworks (clause 3.10(6)) I recommend that the reference to works of that department be moved into the chapter introduction and excluded from its provisions entirely. Minor amendments to specifically name the Wellington City Council and Greater Wellington Regional Council should be made.

Notified permitted activity step R1.2 – General Rural and Open Space and Recreation Zones

Subclause 2(a)(i)

606. This subclause is concerned with both the construction of new fences, and the maintenance of existing ones. Given that established activities cannot be new, the development of the 'new fences' part of this clause must be removed.

Subclause 2(a)(ii)

607. This subclause concerned with maintenance of water management devices is appropriate as it is limited to existing ones.

Subclause 2(a)(iii)

608. This subclause allows for a 10m clearance around residential units in rural areas. While large retaining it allows for a level of consistency with the permissions under sections 43 and 64 of the Fire and Emergency Act 2017. No submissions were in opposition.

Subclause 2(a)(iv)

609. For the same reasons as my response to Subclause 2(a)(i) no new uses can be included so 'new' access tracks need to be removed.

New permitted activity subclauses

610. I have turned my mind to whether any additional subclauses should be newly added in response to submissions or because of other changes I recommend be made.

Pest plants

611. As a result of my recommended deletion of rule ECO-R2 in its entirety in section 11.16, the removal of pest plants should be added as a subclause for all zones.

Restoration and maintenance of a significant area

612. I have identified a mechanical issue between rules ECO-R1 and ECO-R3 (restoration) in that as notified no vegetation even exotic vegetation can be removed within an SNA even as part of a restoration programme where indigenous vegetation is being planted as a replacement. This is effectively what restoration 'is'.
613. It is in my view not appropriate to place a resource consent barrier in front of restoration initiatives and accordingly a subclause must be added to allow for vegetation to be removed if it is for the purpose of restoration under ECO-R3.

Aggregate extraction

614. In my response to the Aggregate and Quarry Association [303.15, opposed by the Director-General of Conservation FS106.12] in relation to ECO-P2 at section 11.9 I have recommended adding a new clause to the policy around existing quarrying operations.
615. I stated that in my view it is reasonable, acknowledging the regional significance of such strategic assets, to allow for relatively minor clearance for continued operation and maintenance, but not expansion. To implement this policy, I recommend addition of a new rule step for the Quarry Zone (which applies to Horokiwi and Kiwi Point Quarries) where clearance of vegetation is permitted subject to compliance with ECO-S2. I welcome discussion as to the appropriateness of this extent of clearance from the submitters as to whether this finds a balance of enabling operation while protecting significant natural areas.

Maintenance and repair of existing buildings and structures

616. I agree with Oliver Sangster [112.11] and Steve West [2.9] that there should be a permitted clearance to enable the maintenance and repair of existing buildings and structures. While there has been an effort to 'trim back' boundaries of SNAs from buildings and structures, allowing an additional level of clearance is in my view appropriate to enable maintenance and repair such as where scaffolding or other structures might be required. This aligns with the notified subclause of Policy ECO-P2

(appropriate clearance)

Notified controlled activity step R1.3 – All zones

617. I have also considered whether a controlled activity step is appropriate and can be retained in the rule structure given the directives of the NPS-IB to use an avoidance or effects management hierarchy.
618. In my view it is incompatible with the precautionary approach of policy 3 of the NPS-IB and my newly recommended Policy ECO-P2 to apply a controlled activity status in this chapter. It follows that there needs to be the ability to decline a resource consent where effects on the matters in recommended ECO-P3 are not avoided or the effects management hierarchy is not followed.
619. While I acknowledge the substantial public benefit achieved by GWRC and Wellington City Council increasing public access and enabling appreciation of SNAs, and in absence of the directives of the NPS-IB I support the notified proposed. However, new tracks are not exempt from the avoid directive of clause 3.10 or the application of the effects management hierarchy.
620. Accordingly, I recommend that this rule step is deleted in its entirety, and that new tracks require resource consent as a Discretionary Activity, detailed in my continued assessment.
621. I note that the maintenance and repair of GWRC and Wellington City Council's existing tracks will continue to be provided for as a permitted activity under ECO-R1.1, where the works also meet the requirements of ECO-S2.

Consideration of submissions and other amendments to the remainder of the rule

622. Having reviewed the notified rule in the new context of the NPS-IB avoidance and effects management framework and against the submissions received I have arrived at the view that it is overly complicated and can be simplified within the scope of submissions.
623. Two key issues are apparent to me reading submissions received:
- a. Uncertainty around application of the rule to the coastal environment; and
 - b. Different activity statuses and number of rule steps being sought.
624. These issues can be seen in the submissions of:
- a. Horokiwi Quarries Limited [271.25, 271.26] who consider it is not clear

whether the permitted activity steps apply to the coastal environment. They also seek a discretionary activity status in replacement of the notified non-complying status for rule step R1.6 in respect of coastal SNAs and policy 11a of the NZCPS.

- b. Forest and Bird who seek discretionary status for new access tracks, oppose the controlled activity status for new council walking tracks and oppose the non-complying activity status being used only for the assessment of policy 11(a) of the NZCPS.

- 625. Considering the notified provisions, my interpretation is that the notified permitted activity steps were intended to apply both within and outside of the coastal environment.
- 626. I can understand the confusion of Horokiwi Quarries given that each of the restricted discretionary and non-complying activity status rule steps (R1.4 – R1.6) include varying clauses with respect to the coastal environment which are differentiated based on whether any of the matters in policy 11(a) or 11(b) of the NZCPS are present.
- 627. In this way all of these steps apply to the coastal environment but are triggered differently depending on the presence (or not) of the matters in policy 11(a) or 11(b) of the NZCPS.
- 628. The drafting is also unclear as each subclause (a) and (b) is joined by the conjunctive ‘and’, meaning both subclauses need to be met to trigger assessment under the rule step. On plain reading none address noncompliance with the permitted activity steps *outside* of the coastal environment.
- 629. In the context of the new policies and amendments to policies which I have recommended to reflect the specificity of the tests in the NPS-IB and NZCPS the notified approach is in my view overly complicated and unnecessary.
- 630. To address these issues and simplify the rule framework I propose the following structure which will apply both within and outside of the coastal environment:

| | |
|------------------------------------|--|
| Permitted activity step 1 | All zones |
| Permitted activity step 2 | General Rural and Open Space and Recreation Zones |
| Permitted activity step 3 | Quarry Zone |
| Discretionary activity step | All non-compliances with permitted activity steps 1 -3 |

631. I consider this framework is appropriate for the following reasons:

- a. The recommended policies of the chapter ‘do the heavy lifting’ to manage adverse effects on SNAs being very directive and *requiring a set process to be followed*.
 - i. In the first instance a wide range of effects must be avoided, and the effects management hierarchy only applied for other effects.
 - ii. Some specific new activities (as directed by clause 3.11) which cannot be permitted activities, are required to be assessed through the effects management hierarchy instead.
 - iii. The effects management hierarchy is contained within its own policy to be considered as either the primary or secondary effects assessment step.
 - iv. Approaching this from a restricted discretionary step perspective would require listing out effectively all policies of the chapter to undertake a fulsome assessment such that it would not be any clearer which policies to consider for a given activity.
- b. The use of a discretionary status is consistent with the drafting style guide and previous decisions taken for rule statuses. ‘Avoidance’ frameworks (such as in recommended ECO-P6 and ECO-P3) are consistent with a Discretionary activity status.
- c. Resource consent assessments need to follow the ‘precautionary approach’ of recommended ECO-P1 such that there should be no limitation on the extent of matters able to be considered making this status preferable over restricted discretionary.
- d. The policies of the chapter *direct effects-based assessments* such that it is unlikely that a non-complying resource consent (for example in the notified R1.6 in respect of policy 11(a) matters) would be able to pass the ‘policy

gateway' of s104D of the RMA. Accordingly, consents would always be required to demonstrate how they meet the 'effects gateway' of adverse effects being minor.

- e. Assessment of relevant levels of effects on coastal SNAs is already well-established and directed through recommended ECO-P6 in respect of the matters in policies 11(a), (b) and other adverse effects, that that cascading to a non-complying activity status would achieve very little.
- f. In the context of the strategic direction of the plan which seeks the protection of significant aspects of the natural environment alongside the creation of a well-functioning urban environment the Discretionary approach allows for a more balanced approach. Assessments for resource consents would include considerations of the strategic directions themselves.
- g. The restructured rule is much simpler and easier to understand, remedying the interpretation issues identified by submitters.

632. Considering the recommendation to extensively rewrite the rule, my recommendations on the submissions are that:


- a. Submissions from Tyers Stream Group [221.43], Zealandia Te Māra a Tāne [486.1], Oliver Sangster [112.11] and Steve West [2.9] be accepted in part, on the basis that I recommend ECO-R1 is retained but with amendments.
- b. In respect of the submission points from Peter Kelly [16.3, 16.4] by the time Council makes decisions in this topic, SNAs will not be able to be identified and have this rule apply in residential areas as per my assessment in section 6. The submission is rejected. This is also my response to Forest and Bird [345.196].
- c. The submission point from Forest and Bird supporting that ECO-R1 applies to all vegetation and not only indigenous vegetation is accepted [345.195, supported in part by FS101.137, opposed by FS110.8]. This was the notified approach.
- d. The submission point from Forest and Bird in relation to adding 'lawfully established' to ECO-R1.1 [345.197] is accepted; and the request to elevate the activity statuses of activities from permitted or controlled to discretionary is accepted in part [345.198, 345.199]. The submitter's request to clarify the extent of vegetation clearance is addressed under my recommendation in relation to ECO-S1.
- e. The submission points from Forest and Bird requesting that ECO-R1.5 and ECO-

R1.6 refer to policy 11 of the NZCPS in its entirety [345.200, 345.202] are rejected given that I have proposed to apply a discretionary activity status to non-compliance with permitted activity steps. I have also revised the Section 88 Requirements section within new ECO-R1.4 for simplicity and to reduce text from the notified equivalent in partial relief of the submitter. Their submission point requesting the reference to ECO-P2 is amended is rejected given my extensive rewrite.

- f. The submission points from Horokiwi Quarries Ltd [271.25, 271.26] should be accepted in part given my recommended new rule step for the Quarry zone and Discretionary activity framework.
- g. The submission points from FENZ [273.103, 273.104] should be accepted in part. In my view ECO-R1.1(a)(iii) and Eco-R1.2(a)(iii) in the notified PDP already achieves the relief sought; however I do not recommending ECO-R1.1(a)(v) to align with the equivalent provision in CE-S1 and to not create alignment issues.
- h. The submission points from WCCERG [377.126 opposed by FS126.218 and FS128.218, and 377.127 opposed by FS126.219 and FS128.219] are accepted in part, insofar as when the requirements under the Permitted activity rules are not met, the Discretionary activity rule will apply.

Summary of recommendations

633. **HS11-ECO-Rec42:** That ECO-R1 (Trimming, pruning or removal of vegetation within a significant natural area) is amended as shown below and at Appendix A.

| ECO-R1  | Trimming, pruning or removal of vegetation within a significant natural area |
|---|---|
| All zones | <p>1. Activity Status: Permitted</p> <p>Where:</p> <ul style="list-style-type: none"> a. The trimming, pruning or removal of vegetation is to: <ul style="list-style-type: none"> i. Ensure the operation of any <u>lawfully established</u> formed public road or rail corridor, private access leg, driveway or right of way where removal of vegetation is limited to within the formed width of the road, rail corridor or access; or ii. Enable flood protection or natural hazard control where undertaken by a Regional or Territorial Authority or agents on their behalf as part of natural hazard mitigation works; or iii. Comply with section 43 or 64 of the Fire and Emergency Act 2017; or iv. Enable tangata whenua to exercise Customary Harvesting (hauhake); or |

| | |
|---|---|
| | <ul style="list-style-type: none"> v. Address an imminent threat to people or property represented by deadwood, diseased or dying vegetation and ECO-S1 is complied with; or vi. Enable the ongoing restoration work within the Zealandia sanctuary where undertaken by the Karori Sanctuary Trust; or vii. To enable the maintenance of public walking or cycling tracks and parks maintenance and repair undertaken by the Department of Conservation, a Regional or Territorial Authority Greater Wellington Regional Council or Wellington City Council, or their approved contractors, and in accordance with where ECO-S2 is complied with; or viii. <u>Trim, prune or remove a pest plant; or</u> ix. <u>Enable restoration and maintenance of a significant natural area under ECO-R3; or</u> x. <u>Enable maintenance and repair of existing buildings or structures and ECO-S2 is complied with.</u> |
| General Rural Zone Open Space and Recreation Zones | <p>2. Activity status: Permitted</p> <p>Where:</p> <ul style="list-style-type: none"> a. The trimming or removal of vegetation is to: <ul style="list-style-type: none"> i. Construct new perimeter fences for stock or pest animal exclusion from areas or maintenance <u>Maintenance</u> of existing fences provided the trimming, <u>pruning</u> or removal of any vegetation does not exceed 2m in width; or ii. Maintain an existing farm drain, septic tank disposal field, or constructed stormwater management or treatment device; or iii. To create a firebreak within 10m of an external wall or roof of a residential unit that existed at 18 July 2022; or iv. Maintain, <u>or</u> upgrade or create a new <u>an</u> access track for agricultural, pastoral or horticultural activities in accordance with where ECO-S3 <u>is complied with.</u> |
| <u>Quarry Zone</u> | <p>3. <u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <ul style="list-style-type: none"> a. <u>The trimming or removal of vegetation is to:</u> <ul style="list-style-type: none"> i. <u>Enable the continued operation and maintenance of quarries for aggregate extraction and ECO-S2 is complied with.</u> |
| - All Zones | <p>3. Activity status: Controlled</p> <p>Where:</p> <ul style="list-style-type: none"> a. The trimming or removal for the upgrade or creation of a new public walking or cycling track and any ancillary structures undertaken by the Department of Conservation, a Regional or Territorial Authority, or their approved contractor and in accordance with ECO-S4; or b. Compliance with ECO-R1.1.a.vii. cannot be achieved. <p>-</p> <p><u>Section 88 RMA information requirements for applications:</u></p> |

| | |
|---------------------------|---|
| | <ul style="list-style-type: none"> - Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15: - <ul style="list-style-type: none"> 1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and 2. Demonstrating that effects management hierarchy at ECO-P2 has been applied. |
| - All Zones | <p>4. Activity status: Restricted Discretionary</p> <p>Where:</p> <ul style="list-style-type: none"> a. Compliance with any of the requirements of ECO-R1.1 cannot be achieved; and b. The significant natural area does not contain any matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the coastal environment. <p>Matters of discretion are:-</p> <ul style="list-style-type: none"> 1. The matters in ECO-P2, ECO-P3 and ECO-P4; and 2. The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard. <p><u>Section 88 RMA information requirements for applications:</u></p> <ul style="list-style-type: none"> - Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15: - <ul style="list-style-type: none"> 1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and 2. Demonstrating that effects management hierarchy at ECO-P2 has been applied. |
| - General Rural Zone - | <p>5. Activity Status: Restricted Discretionary</p> <p>Where:</p> <ul style="list-style-type: none"> a. Compliance with any of the requirements of ECO-R1.2 cannot be achieved; and b. The significant natural area does not contain any matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment. <p>Matters of discretion are:-</p> <ul style="list-style-type: none"> 1. The matters in ECO-P2, ECO-P3 and ECO-P4; and 2. The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard. <p><u>Section 88 information requirements for applications:</u></p> <ul style="list-style-type: none"> - |

| | |
|-----------|--|
| | <p>Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:</p> <ul style="list-style-type: none"> - 1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and 2. Demonstrating that effects management hierarchy at ECO-P2 has been applied. |
| All Zones | <p>6. Activity status: Non Complying</p> <p>Where:</p> <ul style="list-style-type: none"> a. Compliance with the requirements of ECO-R1.1 or ECO-R1.2 or ECO-R1.4 cannot be achieved; and b. The significant natural area includes matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment. <p>-</p> <p><u>Section 88 information requirements for applications:</u></p> <p>-</p> <p>Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:</p> <ul style="list-style-type: none"> 1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and 2. Demonstrating that effects management hierarchy at ECO-P2 has been applied. |
| All zones | <p>4. Activity status: Discretionary</p> <p>Where:</p> <ul style="list-style-type: none"> a. <u>Compliance with the requirements of ECO-R1.1, ECO-R1.2 or ECO-R1.3 is not achieved.</u> <p><u>Section 88 information requirements for applications:</u></p> <p>-</p> <p><u>Applications for a resource consent under this rule must contain an ecological assessment in accordance with APP15 – Ecological Assessment.</u></p> |

634. **HS11-ECO-Rec43:** That submission points in relation to ECO-R1 (Trimming, pruning or vegetation removal within a significant natural area) are accepted/rejected as set out in Appendix B.

Section 32AA evaluation

635. I have undertaken a s32AA evaluation because my recommendations have altered the policy approach for the policy and rule framework by:

- a. Introducing a permitted activity allowing the removal of indigenous vegetation within an SNA to enable the continued operation and maintenance of quarries;
 - b. Removing the ability to construct new perimeter fences or access tracks as a permitted activity in rural areas;
 - c. Removing the controlled activity step from the notified rule in respect of new tracks constructed by the Wellington City Council or Greater Wellington Regional Council; and
 - d. Removing restricted discretionary and non-complying activity steps from the rule such that there is only a discretionary activity status cascade.
636. In my opinion, the amendments are more appropriate in achieving the objectives of the PDP and the NPS-IB than the notified provisions.
637. In particular, I consider that the amendments:
- a. Achieve greater alignment with higher order planning documents, namely the NPS-IB clauses clause 3.10(6) and clause 3.15;
 - b. Better recognise the strategic objective SCA-O7 in respect of quarrying activities while protecting indigenous biodiversity.
 - c. Simplify the rule framework, increasing certainty and removing ambiguity of application within and outside of the coastal environment.
 - d. Enable the policies of the chapter 'do the heavy lifting' considering they are directive and require a set process to be followed to achieve specific outcomes for different levels of effects, such that cascading activity status provides little benefit.
 - e. Provide an efficient way to implement the NPS-IB in part by focusing on those provisions that are highly directive, must be implemented and are being implemented through RPS-PC1 as set out in section 6 of this s42A report.
 - f. The risks of not making these amendments is that:
 - i. The rule takes an overly restrictive approach to the effects of activities within SNAs that does not reflect the urban environment in which the NPS-IB must be implemented and applies an unreasonably high gateway test.

- ii. There are interpretation issues in respect of which rule step applies in the coastal environment and which does not, resulting in inefficiencies.

638. Consequently, these amendments are more efficient and effective than the notified provisions in achieving the objectives of the PDP and the objective of the NPS-IB.

639. The environmental, economic, social and cultural costs and benefits of the recommended amendments, as they vary from the existing PDP Evaluation Report, are considered below.

| | |
|----------------------|---|
| Environmental | <p><i>Benefits</i></p> <p>The recommended amendments are expected to have environmental benefits comparable to the notified provisions.</p> <p><i>Costs</i></p> <p>There may be marginal environmental costs through permitting a small amount of vegetation clearance for quarrying activities.</p> <p>Simplifying activity statuses in the plan is unlikely to led to any meaningful environmental costs given the directive policies to avoid significant adverse effects or use the effects management hierarchy to manage other effects.</p> |
| Economic | <p><i>Benefits</i></p> <p>Enabling a small amount of SNA clearance for quarrying activities may deliver minor economic benefits.</p> <p>A more straightforward rule framework may deliver benefits through increased efficiency in the preparation and processing of resource consents.</p> <p><i>Costs</i></p> <p>Removing the ability for new perimeter fences and walking tracks to be developed as permitted and controlled activities respectively will result in</p> |

| | |
|-----------------|---|
| | <p>costs for resource consent and ecological assessments.</p> <p>An ecological report could be in the realm of \$3000.</p> <p>A non-notified resource consent application fee is presently \$2,776.50.</p> |
| Social | <p><i>Benefits</i></p> <p>The recommended amendments are expected to have social benefits comparable to the notified provisions.</p> <p><i>Costs</i></p> <p>Compared to the notified proposal new walking and cycling tracks through SNAs would be subject to stricter avoidance tests which may mean some are not developed and the ability to appreciate SNAs is reduced.</p> |
| Cultural | <p><i>Benefits</i></p> <p>None identified.</p> <p><i>Costs</i></p> <p>Site and Area of Significance to Māori - Waitohi Stream #170 runs through an area of SNA at 137 Centennial Highway, Kiwi Point Quarry. A small width of this SNA would be permitted to be cleared under the proposed rule but not to a width that it would encroach into the site and area itself.</p> <p>No other SASMs or cultural interests have been identified in the quarry sites and as such these costs are expected to be minimal.</p> |

11.16 ECO-R2: Removal of non-indigenous vegetation within a significant natural area

Matters raised by submitters

640. Tyers Stream Group [221.44] supports ECO-R2 and seeks that this is retained as notified.

641. Forest and Bird:

- a. Supports the Permitted activity rule applying to pest plants only and seeks that

ECO-R2 is incorporated into ECO-R1 [345.203, opposed by Steve West FS110.9].

- b. Notes that the rule references ECO-P2 in error and seeks that this is corrected [345.204]. The submitter also queries whether the reference to ECO-P4 in the matters of discretion under ECO-R2.2 is an error and whether this should be a reference to ECO-P3.
 - c. Considers is not clear when this rule would apply [345.205]. In the submitter's view the rules in ECO-R1 already appropriately apply to the removal of all vegetation, including exotic vegetation. They note that ECO-R2 states that it applies when compliance with ECO-R2.1 is not achieved and this suggests that the exotic vegetation at issue is not a pest plant. They submit that if that is the case, the removal is already regulated by ECO-R1 and suggest that the ECO-R2.1 is incorporated into ECO-R1.1.
642. WCCERG [377.128] has also identified that the rule incorrectly refers to ECO-P2 and not ECO-P1 as intended.

Assessment

643. I agree with the relief sought by Forest and Bird [345.203 opposed by FS110.9, 345.205] that the removal of pest plants can be managed under rule ECO-R1. This makes sense given the only purpose of ECO-R2 is to manage the removal of pest plants while ECO-R1 is concerned with the broader removal of *all* vegetation.
644. Moving the removal of pest plants into ECO-R1 with a new subclause makes ECO-R2 redundant and it can be deleted.

Summary of recommendations

645. **HS11-ECO-Rec44:** That ECO-R2 (Removal of non-indigenous vegetation within a significant natural area) is deleted in its entirety as shown at Appendix A.
646. **HS11-ECO-Rec45:** That submission points in relation to ECO-R2 (Removal of non-indigenous vegetation within a significant natural area) are accepted/rejected as set out in Appendix B.

11.17 ECO-R3: Restoration and maintenance of a significant natural area

Matters raised by submitters

647. Tyers Stream Group [221.45] and WCCERG [377.129] support ECO-R3 and seeks that

this is retained as notified.

648. Nga Kaimanaaki o te Waimapihi [215.2] supports the preservation and restoration of indigenous fauna, and is concerned that cats eat native birds, wētā and lizards. As such, the submitter seeks that the rule is amended to include provisions restricting pets from roaming in SNAs.

649. Forest and Bird:

- a. Seeks clarification of the term 'identified values' used in ECO-R3 [345.206].
- b. Considers that an additional matter of discretion should be added to ECO-R3.2 so that the rule gives effect to policy 11 of the NZCPS [345.207], as shown below:

ECO-R3 - Restoration and maintenance of a significant natural area

2. Activity status: **Restricted Discretionary**

Where:

- a. Compliance with the requirements of ECO-R3.1 cannot be achieved

Matters of discretion are:

1. The matters in ECO-P2 and ECO-P4

Section 88 information requirements for applications:

Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:

1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and
2. Demonstrating that effects management hierarchy at ECO-P2 has been applied; and
3. Demonstrating the effects of the proposal give effect to ECO-P5 in relation to the requirements of policy 11 of the NZCPS.


650. Zealandia Te Māra a Tāne [486.2] is concerned that ECO-R3 may limit activities such as reintroductions of fauna species, and other related activities, at Zealandia Te Māra a Tāne is not subject to the Reserves Act, Conservation Act or Queen Elizabeth the Second National Trust Act. Thus, the submitter seeks an additional clause under ECO-R3 that enables Zealandia operations to continue, as provided in other rules in the Plan.

Assessment

651. The intent of ECO-R3 is to clearly signal and enable the District Plan's enablement of restoration activities.
652. It sets out a range of circumstances where restoration of a SNA is permitted subject to subclauses of the rule. My view is that the rule should be as enabling as possible to support inherently positive activities for SNAs.
653. Consistent with my recommendation at sections 11.10 and 11.12 to remove the word 'identified' I recommend that this change be consequentially made here. It is even more relevant given that restoration through planting new plants will likely contribute to changing values of a SNA. I recommend that submission point 345.206 is rejected.
654. I acknowledge the concern raised by Zealandia Te Māra a Tāne [486.2] that restoration and maintenance works within Zealandia could be inadvertently captured by the rule and note that there is a carve-out for vegetation trimming, pruning or removal within the Zealandia site at ECO-R1. In response to this I recommend that the same carve out be introduced into ECO-R3 so that restoration and maintenance works within Zealandia are clearly permitted.
655. As with my recommendations for ECO-R1, I recommend that a full discretionary activity status be triggered for non-compliance with permitted activity standards for the same reasons I have listed in that assessment. I acknowledge that no specific submissions were made seeking this change, but view this change as consistent with those general submissions seeking that the plan be aligned with the NPS-IB through this hearing process (Director-General of Conservation [385], GWRC [351] and Forest and Bird [345]). This addresses the concerns of Forest and Bird [345.207]
656. I acknowledge the submissions in support of the rule [221.45, 377.129] and recommend that these are accepted in part, on the basis that amendments are recommended below.
657. With respect to the submission point from Nga Kaimanaaki o te Waimapihi [215.2], I acknowledge that cats can eat native birds, wētā and lizards, but do not consider that the District Plan is the appropriate place to regulate the roaming of pets. I reference my commentary on the Council's Animal Bylaw in section 11.11. I recommend that this submission point is rejected.
658. 547. I note that I have recommended an alternative wording for the Section 88 Requirements section. This change captures the relief sought by Forest and Bird in their submission and aligns with my recommendations in relation to ECO-R1.

Summary of recommendations

659. **HS11-ECO-Rec46:** That ECO-R3 (Restoration and maintenance of a significant natural area) is renumbered to ECO-R2 and amended as shown below and at Appendix A.

| ECO-R3²  | Restoration and maintenance of a significant natural area |
|---|---|
| All Zones | <p>1. Activity Status: Permitted</p> <p>Where:</p> <p>a. The works are for the purpose of restoring or maintaining the identified values of a significant natural area by;</p> <ul style="list-style-type: none"> i. Planting eco-sourced local indigenous vegetation or; ii. Carrying out pest animal or pest plant control activities; or iii. Carrying out activities in accordance with a registered protective covenant under the Conservation Act 1987 or Queen Elizabeth the Second National Trust Act 1977; or iv. Carrying out activities in accordance with a reserve management plan approved under the Reserves Act 1977; or v. Mana whenua in accordance with the principle of kaitiakitanga or vi. <u>Carrying out ongoing restoration work within the Zealandia sanctuary where undertaken by the Karori Sanctuary Trust.</u> |
| All Zones | <p>2. Activity status: Restricted Discretionary</p> <p>Where:</p> <p>a. Compliance with the requirements of ECO-R3.1 cannot be <u>is not</u> achieved</p> <p>Matters of discretion are:</p> <p>1. The matters in ECO-P2 and ECO-P4</p> <p><u>Section 88 information requirements for applications:</u></p> <p>Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, a resource consent under this rule must contain an ecological assessment in accordance with APP15 – Ecological Assessment.:</p> <p>1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and 2. Demonstrating that effects management hierarchy at ECO-P2 has been applied.</p> |

660. **HS11-ECO-Rec47:** That submission points in relation to ECO-R3 (Restoration and maintenance of a significant natural area) are accepted/rejected as set out in Appendix B.

11.18 ECO-R4: New plantation forestry within a significant natural area

Matters raised by submitters


661. Tyers Stream Group [221.46], Forest and Bird [345.208] and WCCERG [377.130] support ECO-R4 and seek that this is retained as notified.

Assessment

662. As detailed at section 11.6, clause 3.14 of the NPS-IB applies to plantation forestry, although primarily in relation to existing plantation forestry activities.
663. Notified ECO-R4 requires new plantation forestry consent as a Non-complying Activity. I do not have submission scope to change this and otherwise consider this is consistent with the requirements to the NPS-IB to take a precautionary approach that must be applied where the effects of an activity are unknown.
664. I have identified a gap in that the information requirements otherwise required for resource consent under the chapter have not been carried across to this rule. An assessment under Appendix 15 – Ecological Assessment would always be requested by a consenting officer. To make this clear I recommend these same information requirements be copied into the rule.
665. Therefore, I agree in part with the submitters [221.46, 345.208 and 377.130] that the rule should be retained in the District Plan as notified.

Summary of recommendations

666. **HS11-ECO-Rec48:** That ECO-R4 (New plantation forestry within a significant natural area) is renumbered to ECO-R3 and amended as shown below and in Appendix A.

| | |
|---|---|
| ECO-R43  | New plantation forestry within a significant natural area |
| All Zones | <p>1. Activity status: Non-Complying</p> <p><u>Section 88 information requirements for applications:</u></p> <p><u>Applications for a resource consent under this rule must contain an ecological assessment in accordance with APP15 – Ecological Assessment.</u></p> |

667. **HS11-ECO-Rec49:** That submission points in relation to ECO-R4 (New plantation forestry within a significant natural area) are accepted/rejected as set out in Appendix B.

11.19 ECO-S1: Trimming, pruning or removal where there is the imminent threat to the safety of people or property

Matters raised by submitters

668. Tyers Stream Group [221.47] and WCCERG [377.131] support ECO-S1 and seek that this is retained as notified.
669. Forest and Bird [345.209, opposed by Steve West FS110.10] supports ECO-S1, noting that both 'Technician Arborist' and 'Works Arborist' are defined in the Plan. The submitter seeks that point 3 of the standard is amended to the defined term 'Technician Arborist', as the definition requires the skills appropriate for risk assessment relevant to this activity, and to provide clarity for plan users. This request is shown below:

ECO-S1 - Trimming, pruning or removal where there is the imminent threat to the safety of people or property

...

3. Any removal is undertaken or supervised by a suitably qualified ~~arboricultural expert~~ Technician Arborist.

670. GWRC [351.154, opposed by Steve West FS110.14] considers that the assessment criteria within the standard should be amended so that it applies to both indigenous and non-indigenous vegetation as this would make it clear that all vegetation (aside from pest plants) is to be protected in these areas, except where otherwise specified for restoration or other purposes. The submitter notes that any non-indigenous plants within SNAs that are not pest plants may provide significant habitat for indigenous biodiversity such as birds, bats and lizards. This understanding is recognised in section 6(c) of the Act which directs the protection of the "significant habitats of indigenous fauna" not the significant indigenous habitats of indigenous fauna. The change sought by GWRC is shown below:

ECO-S1 - Trimming, pruning or removal where there is the imminent threat to the safety of people or property

Assessment criteria where the standard is infringed:

1. The extent to which the trimming or removal of ~~indigenous~~ vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and
2. The effect of the vegetation removal on the identified biodiversity values.

Assessment

671. As such I have reviewed the ECO standards to ensure that for permitted activities they are generally appropriate as a proxy for the tests in clause 3.15(2) of the NPS-IB or are appropriate to manage any effects from activities excluded in clause 3.10(6).
672. In my view, the standards and their thresholds of clearance or requirements for particular approaches to be taken to trim, prune or remove vegetation are appropriate.
673. I disagree with Forest and Bird [345.209, opposed by Steve West FS110.10] that the ECO-S1 should require the works be undertaken by a Technician Arborist. This is a higher test than the equivalent emergency works rule for a notable tree (TREE-R3) which must be undertaken by a works arborist, defined in the plan as:

means a person who:

- a. by possession of a recognised arboricultural degree, diploma or certificate and on the job experience, is familiar with the tasks, equipment and hazards involved in arboricultural operations; and
- b. has demonstrated competency to Level 4 New Zealand Certificate in Horticulture Services (Arboriculture) standard (or to an equivalent arboricultural standard).

674. In my view given that notable trees have been individually assessed for their significance to a greater level than SNAs generally it would not be appropriate to require an even more qualified professional to undertake the work. In this case I consider it is appropriate to aligned with the 'works arborist' approach of TREE-R3.
675. Given that the rule which the standard is part of is relevant for the removal of all vegetation, indigenous or not, I agree with GWRC [351.154, opposed by Steve West FS110.14] that the assessment criteria be aligned with the intent of the rule by considering the removal of vegetation generally. I therefore recommend that the request by GWRC is adopted into the assessment criteria within ECO-S1 and all other standards as a consequential amendment.
676. Consistent with my recommendation at section 11.14 in respect of 'identified values' I recommend these words be removed. I also recommend as a minor change the assessment criteria consistently refer to 'trimming, pruning and removal, to be consistent with the rule title.
677. Given the detail required of an Ecological Assessment in Appendix 15 for a resource consent application, I do not think the assessment criteria add anything in the assessment of the resource consent. Ideally, they would be deleted - though no submitters have requested this. At worst they are harmless duplication.

Summary of recommendations

678. **HS11-ECO-Rec50:** That ECO-S1 (Trimming, pruning or removal where there is the imminent threat to the safety of people or property) is amended as shown below and at Appendix A.

| ECO-S1 | Trimming, pruning or removal where there is the imminent threat to the safety of people or property | |
|-----------|--|--|
| All Zones | <ol style="list-style-type: none"> 1. The works are essential due to imminent threat to the safety of people or property and Council is advised of this threat as soon as practicable; 2. All trimming or pruning must be undertaken to a growth point or branch union; and 3. Any removal is undertaken or supervised by a suitably qualified arboricultural expert. | <p>Assessment criteria where the standard is infringed:</p> <ol style="list-style-type: none"> 1. The extent to which the trimming, pruning or removal of indigenous vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and 2. The effect of the vegetation trimming, pruning or removal on the identified biodiversity values. |

679. **HS11-ECO-Rec51:** That submission points in relation to ECO-S1 (Trimming, pruning or removal where there is the imminent threat to the safety of people or property) are accepted/rejected as set out in Appendix B.

11.20 ECO-S2: Vegetation removal associated with maintenance or repair of public walking and cycling tracks including parks maintenance and repair

Matters raised by submitters

680. Tyers Stream Group [221.48] and WCCERG [377.132] support ECO-S2 and seek that this is retained as notified.
681. Forest and Bird [345.210] supports ECO-S2 in part, but considers this could be more clear as to how much vegetation clearance is allows. The submitter seeks the following amendment:

ECO-S2 – Vegetation removal associated with maintenance or repair of public walking and cycling tracks including parks maintenance and repair

Vegetation removal or trimming must:

1. Not be greater than 2.5m in width in total to accommodate the track; and
2. Not involve removal of any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground.

682. Consistent with their requested change to ECO-S1 and for the same reasons, GWRC [351.155, opposed by Steve West FS110.15] seeks that the assessment criteria within the standard are amended to apply to both indigenous and non-indigenous vegetation. The change sought by GWRC is shown below:

ECO-S2 – Vegetation removal associated with maintenance or repair of public walking and cycling tracks including parks maintenance and repair

Assessment criteria where the standard is infringed:

1. The extent to which the trimming or removal of ~~indigenous~~ vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and
2. The effect of the vegetation removal on the identified biodiversity values.

Assessment

683. I agree with Forest and Bird [345.210] that the standard as it is written is open to interpretation and recommend the changes that the submitter seeks are adopted to clarify vegetation trimming, pruning and removal is a maximum 'width'. This will provide clarity and enable effective monitoring of the standard.
684. Given my recommendation in section 11.15 in respect of a permitted activity in respect of the continued operation and maintenance of quarries for aggregate extraction subject to compliance with this standard the title of the standard should be amended to reflect this.
685. Consistent with my recommendation at section 11.14 in respect of 'identified values' I recommend these words be removed.
686. I also recommend as a minor change the assessment criteria consistently refer to 'trimming, pruning and removal, to be consistent with the rule title and as a consequential change for consistency removing the word 'indigenous' per my

acceptance GWRC [351.154, opposed by Steve West FS110.14].

Summary of recommendations

687. **HS11-ECO-Rec52:** That ECO-S2 (Vegetation removal associated with maintenance or repair of public walking and cycling tracks including parks maintenance and repair) is amended as shown below and at Appendix A.

| | | |
|-----------|--|---|
| ECO-S2 | Vegetation <u>trimming, pruning or</u> removal associated with: <ul style="list-style-type: none"> • maintenance or repair of public walking and cycling tracks including parks maintenance and repair • <u>the continued operation and maintenance of quarries for aggregate extraction</u> • <u>maintenance and repair of existing buildings and structures</u> | |
| All Zones | Vegetation <u>trimming, pruning or</u> removal must: <ol style="list-style-type: none"> 1. Not be greater than 2.5m in width to accommodate the track; and 2. Not involve removal of any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground. | Assessment criteria where the standard is infringed: <ol style="list-style-type: none"> 1. The extent to which the trimming, <u>pruning or</u> removal of indigenous vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and 2. The effect of the vegetation <u>trimming, pruning or</u> removal on the identified biodiversity values. |

688. **HS11-ECO-Rec53:** That submission points in relation to ECO-S2 (Vegetation removal associated with maintenance or repair of public walking and cycling tracks including parks maintenance and repair) are accepted/rejected as set out in Appendix B.

11.21 ECO-S3: Vegetation removal associated with farm access tracks

Matters raised by submitters

689. Tyers Stream Group [221.49], Forest and Bird [345.211] and WCCERG [377.133] support ECO-S3 and seek that this is retained as notified.
690. GWRC [351.156, opposed by Steve West FS110.16] again seeks that the assessment

criteria within the standard are amended to apply to both indigenous and non-indigenous vegetation. The change sought by GWRC is shown below:

ECO-S3 – Vegetation removal associated with farm access tracks

Assessment criteria where the standard is infringed:

1. The extent to which the trimming or removal of ~~indigenous~~ vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and
2. The effect of the vegetation removal on the identified biodiversity values.

Assessment

691. Consistent with my recommendations for the above two standards I recommend:

- a. Removing the words ‘identified values’.
- b. A minor change the assessment criteria consistently refer to ‘trimming, pruning and removal, to be consistent with the rule title.
- c. A consequential change for consistency removing the word ‘indigenous’ per my acceptance GWRC [351.154, opposed by Steve West FS110.14].

Summary of recommendations

692. **HS11-ECO-Rec54:** That the assessment criteria within ECO-S3 (Vegetation removal associated with farm access tracks) are amended as shown below and at Appendix A.

| ECO-S3 | Vegetation <u>trimming, pruning or</u> removal associated with farm access tracks | |
|--------------------|---|--|
| General Rural Zone | <p>Vegetation removal must:</p> <ol style="list-style-type: none"> 1. Be no greater than 5.0m in width to accommodate the access track; and 2. Not involve removal of any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground; and 3. Be solely for the purpose of providing farm vehicle access | <p>Assessment criteria where the standard is infringed:</p> <ol style="list-style-type: none"> 1. The extent to which the trimming, <u>pruning</u> or removal of indigenous vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and |

| | | |
|--|--|---|
| | directly related to farming and primary production activities. | 2. The effect of the vegetation trimming, pruning or removal on the identified biodiversity values.. |
|--|--|---|

693. **HS11-ECO-Rec55:** That submission points in relation to ECO-S3 (Vegetation removal associated with farm access tracks) are accepted/rejected as set out in Appendix B.

11.22 ECO-S4: Vegetation removal associated with upgrading of existing and creation of new public walking and cycling tracks and associated buildings and structures

Matters raised by submitters

694. Tyers Stream Group [221.50] supports ECO-S4 and seek that the standard is retained as notified.
695. Forest and Bird [345.212] supports the standard in part, but seeks it is amended as shown below, also noting their objection in general to new tracks being a Permitted activity in SNAs.

ECO-S4 – Vegetation removal associated with upgrading of existing and creation of new public walking and cycling tracks and associated buildings and structures

Vegetation removal or trimming must:

1. Not be greater than 2.5m in width in total to accommodate the track and associated track structures; and
2. Not be greater than 5m² in area to accommodate any ancillary buildings or structures.

696. WCCERG [345.212] considers that it is vital that any new tracks and associated buildings and structures are well considered from an ecological perspective, to avoid high-value biodiversity being inadvertently damaged. To achieve this, the submitter seeks that ECO-S4 is separated into two standards, as shown below:

ECO-S4 - Vegetation removal associated with upgrading of existing ~~and creation of new~~ public walking and cycling tracks and associated buildings and structures

Vegetation removal must:

1. Not be greater than 2.5m in width to accommodate the track and associated track structures; and
2. Not be greater than 5m² in area to accommodate any ancillary buildings or structures.

ECO-S5 – Vegetation removal associated with the creation of new public walking and cycling tracks and associated buildings and structures

Vegetation removal must:

1. Not be greater than 2.5m in width to accommodate the track and associated track structures;
2. Not be greater than 5m² in area to accommodate any ancillary buildings or structures; and
3. Demonstrate that it is appropriate by taking into account the findings of an ecological assessment for the activity in accordance with APP15.

697. As with the other standards, GWRC [351.157, opposed by Steve West FS110.17] again seeks that the assessment criteria within the standard are amended to apply to both indigenous and non-indigenous vegetation, as shown below:

ECO-S4 – Vegetation removal associated with upgrading of existing and creation of new public walking and cycling tracks and associated buildings and structures

Assessment criteria where the standard is infringed:

1. The extent to which the trimming or removal of ~~indigenous~~ vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and
2. The effect of the vegetation removal on the identified biodiversity values.

Assessment

698. I have recommended substantial changes to rule ECO-R1 to which this standard was triggered in a controlled activity step. My changes have had the effect of deleting the controlled activity step in its entirety given the NPS-IB pushes for a declinable resource consent to be followed for anything other than 'specified established activities'.
699. Given the deletion of the controlled step and the use of a full discretionary activity status this standard is now defunct and I recommend that it be deleted. Appropriate thresholds for clearance around newly developed tracks granted resource consent can

be set as conditions of consent or under the operation of ECO-R1 and ECO-S2.

700. All submissions should be rejected given this deletion.

Summary of recommendations

701. **HS11-ECO-Rec56:** That ECO-S4 (Vegetation removal associated with upgrading of existing and creation of new public walking and cycling tracks and associated buildings and structures) is deleted.
702. **HS11-ECO-Rec57:** That submission points in relation to ECO-S4 (Vegetation removal associated with upgrading of existing and creation of new public walking and cycling tracks and associated buildings and structures) are accepted/rejected as set out in Appendix B.

11.23 Appendix 2 - Biodiversity Offsetting

703. Ten submitters collectively made 25 submission points in relating to Appendix 2.

Matters raised by submitters

704. Claire Nolan, James Fraser, Biddy Bunzl, Margaret Franken, Michelle Wolland and Lee Muir [275.36], WCCERG [377.515, supported by Paul Blaschke FS129.11] and the Director-General of Conservation [385.84] support Appendix 2 and seek that this is retained as notified.
705. Taranaki Whānui [389.134] seeks that the Appendix reflects an awareness of the NPS-IB.
706. Meridian supports Appendix 2 in part, and seeks that this is retained [228.15, opposed by Transpower FS29.13] subject to the following amendments:
- a. Use of the term 'biodiversity offsetting' within the appendix as this term is defined in the Plan, correction of the reference ECO-P2 with ECO-P1 and additional amendments to the wording of the appendix to align this with the approach used in the PNRP [228.116]. The requested changes are shown in the text box below:

Appendix 2 – Biodiversity Offsetting

The following sets out a framework of principles for ~~the use of~~ biodiversity offsetting ~~offsets~~. Principles must be complied with for an action to qualify as a biodiversity offset. These principles will be used when assessing the adequacy of proposals for the design and implementation of offsetting as part of resource consent applications.

1. Adherence to the effects management hierarchy: The proposed biodiversity offset will be assessed in accordance with the management hierarchy set out in ECO-P1. ~~ECO-P2~~. It should only be contemplated after the management hierarchy steps in ECO-P1 ~~ECO-P2~~ have been demonstrated to have been sequentially exhausted. Any proposal for a biodiversity offset will demonstrate how it addresses the more than minor residual adverse effects of the activity.
2. Limits to offsetting: Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include where:
 - a. Residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected or there is no appropriate offset site;
 - b. There are no technically feasible ~~or socially acceptable~~ options or no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset ~~options~~ by which to secure gains within acceptable timeframes; and
 - c. Effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse. ...

- b. The concept of trading up is to ensure that where biodiversity values are lost, any replacement vegetation to offset this loss must result in a better outcome than the existing situation [228.117].

707. Forest and Bird [345.397] supports the mandatory requirement to comply with the principles in Appendix 2 when offsetting is undertaken. The submitter seeks the following amendments to this appendix:

- a. Clarification of the wording of principle 2: Limits to offsetting, which they consider to be a crucial principle [345.398, opposed by Meridian FS101.169];
- b. Deletion of the last clause of principle 7: Long-term outcomes, as this is unusual and may increase the uncertainty inherent to offsetting (ie that an overall ecologically outcome will be achieved) [345.399, opposed by Meridian FS101.170];
- c. An amendment to principle 8: Time lags, on the basis that the word 'minimise' is open to interpretation and its use in the principle may result in poor indigenous biodiversity outcomes [345.400, opposed by Meridian FS101.171];

- d. Deletion of principle 9: Trading up, on the basis that this is contrary to the requirement that offsetting is 'like for like' [345.401, opposed by Meridian FS101.172]; and
- e. Minor amendments to principle 11: Proposing a biodiversity offset, to ensure the principle is clear and efficient [345.402, opposed by Meridian FS101.173].

708. The amendments sought by Forest and Bird are shown below:

Appendix 2 – Biodiversity Offsetting

2. Limits to offsetting: biodiversity offsetting is not available, and the activity causing the residual adverse effects must be avoided where: ~~Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include where:~~
 - a. The biodiversity affected by the residual adverse effects is irreplaceable or vulnerable;
 - b. ~~Residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected or t~~ There is no appropriate offset site;
 - c. There are no technically feasible or socially acceptable options by which to secure gains within acceptable timeframes; and
 - d. Effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.
7. Long-term outcomes: The biodiversity offset must be managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity, ~~including through the use of adaptive management where necessary.~~
8. Time lags: The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the offset site must be ~~minimised the shortest necessary to achieve the best possible biodiversity outcome and must not exceed the consent period or 35 years whichever is shorter, so that gains are achieved within the consent period and~~ Any time lag must be identified within the biodiversity offset management plan.
9. ~~Trading up: When trading up forms part of an offset, the proposal must demonstrate that the indigenous biodiversity values gained are demonstrably of higher value than those lost, and the values lost are not indigenous taxa that are listed as Threatened, At risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.~~
11. Proposing a biodiversity offset: A proposed biodiversity offset must include a specific biodiversity offset management plan, that:
 - a. Sets out baseline information on the indigenous biodiversity that is potentially impacted by the proposed activity at both the donor and recipient sites, and
 - b. Demonstrates how the requirements set out in this schedule are met, and how they will be carried out, and
 - c. Identifies the monitoring approach that will be used to demonstrate how the principles set out in this schedule will be fulfilled over an appropriate timeframe in accordance with the principles set out above.

709. GWRC seeks the following:

- a. Retention of Appendix 2, subject to amendments [351.326];
- b. That the appendix states that the long-term outcome must be at least a 10% biodiversity gain or benefit, to have regard to policy 24 of the proposed RPS Plan

Change 1 [351.327, opposed by Meridian FS101.174]; and

- c. That the appendix sets out the limitations where biodiversity offsetting is not appropriate [351.328, opposed by Meridian FS101.175].

Assessment

- 710. Appendix 3 of the NPS-IB sets out principles for biodiversity offsetting. I have reviewed Appendix 2 of the PDP against Appendix 3 of the NPS-IB. I note that the principles in the PDP are largely similar to those in the NPS-IB and therefore consider that the relief sought by Taranaki Whānui [389.134] is achieved.
- 711. That said, further refinements are recommended to Appendix 2 to fully align with Appendix 3 of the NPS-IB.
- 712. Based on my recommendation to align Appendix 2 of the PDP with Appendix 3 of the NPS-IB, my recommendations in relation to the submission points are as follows:
 - a. Submission points seeking the retention of the Appendix as notified are accepted in part, in that the appendix is retained but in an amended form.
 - b. Submission points supporting Appendix 2 in principle are accepted.
 - c. Submission points that result in alignment between Appendix 2 and the NPS-IB are accepted, in that my recommendation achieves the relief sought by these submission points.
 - d. Submission points seeking clarification or deletion of specific principles are rejected, in that they would result in a departure from Appendix 3 of the NPS-IB or are rendered moot as a result of the recommended changes.
 - e. In respect of the submission from GWRC to achieve a 10% net gain, I note the RPS-PC1 recommendations are that 10% is 'preferable' and not required. I reject that submission [351.327 opposed by FS101.174].

Summary of recommendations

- 713. **HS11-ECO-Rec58:** That Appendix 2 – Biodiversity Offsetting is amended, with the effect of directly replacing the notified appendix with that from the NPS-IB (Appendix 3), as shown below and at Appendix A.

Principles for Biodiversity Offsetting

These principles apply to the use of biodiversity offsets for adverse effects on indigenous biodiversity.

- 1. Adherence to effects management hierarchy:** A biodiversity offset is a commitment to redress more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.
- 2. When biodiversity offsetting is not appropriate:** Biodiversity offsets are not appropriate in situations where indigenous biodiversity values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:
 - a. residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected;
 - b. effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible;
 - c. there are no technically feasible options by which to secure gains within an acceptable timeframe.
- 3. Net gain:** This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in indigenous biodiversity values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the indigenous biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site:
 - a. types of indigenous biodiversity, including when indigenous species depend on introduced species for their persistence; and
 - b. amount; and
 - c. condition (structure and quality).
- 4. Additionality:** A biodiversity offset achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.
- 5. Leakage:** Biodiversity offset design and implementation avoids displacing harm to other indigenous biodiversity in the same or any other location.
- 6. Long-term outcomes:** A biodiversity offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.

7. **Landscape context:** Biodiversity offsetting is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.
8. **Time lags:** The delay between loss of, or effects on, indigenous biodiversity values at the impact site and the gain or maturity of indigenous biodiversity at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).
9. **Science and mātauranga Māori:** The design and implementation of a biodiversity offset is a documented process informed by science and mātauranga Māori.
10. **Tangata whenua and stakeholder participation:** Opportunity for the effective and early participation of tangata whenua and stakeholders is demonstrated when planning biodiversity offsets, including their evaluation, selection, design, implementation, and monitoring.
11. **Transparency:** The design and implementation of a biodiversity offset, and communication of its results to the public, is undertaken in a transparent and timely manner.

714. **HS11-ECO-Rec59:** That submissions in relation to Appendix 2 – Biodiversity Offsetting are accepted/rejected as set out in Appendix B.

11.24 Appendix 3 - Biodiversity Compensation

715. Six submitters made 21 submission points in relating to Appendix 3.

Matters raised by submitters

716. Claire Nolan, James Fraser, Biddy Bunzl, Margaret Franken, Michelle Wolland and Lee Muir [275.37] and the Director-General of Conservation [385.85] support Appendix 3 and seek that this is retained as notified.
717. Meridian [228.118 – 218.120] supports Appendix 3 in part, and requests the following amendments:
- a. Clarification of the expression ‘trading up’ at principle 8 [228.118];
 - b. Correction of the reference to ECO-P2 within principle 1, which should refer to ECO-P1 [228.119];
 - c. The following amendments to the wording of the appendix on the basis that the ECO policy framework and Appendix 3 should allow consideration of biodiversity compensation where necessary to address residual adverse effects that are

more than minor, which would align with the NRP [228.120]:

Appendix 3 – Biodiversity Compensation

The following sets out a framework of principles for the use of biodiversity compensation. Principles must be complied with for an action to qualify as biodiversity compensation.

1. Adherence to effects management hierarchy: Biodiversity compensation is a commitment to redress residual adverse effects that are more than minor. It must only be contemplated after the management hierarchy steps in ECO-P1 ~~ECO-P2~~ have been demonstrated to have been sequentially exhausted and thus applies only to residual adverse effects on indigenous biodiversity that are more than minor.

2. Limits to biodiversity compensation: In deciding whether biodiversity compensation is appropriate, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be compensated for because:

- a. The indigenous biodiversity affected is irreplaceable or vulnerable;
- b. There are no technically feasible ~~or socially acceptable~~ options or no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset ~~options~~ by which to secure gains within acceptable timeframes; and ...

718. Forest and Bird [345.403, opposed by Transpower FS29.38 and Meridian FS101.176] opposes the use of compensation as a management approach for indigenous biodiversity and therefore seek that Appendix 3 is deleted in its entirety.
719. Should Appendix 3 be retained, Forest and Bird are supportive of the mandatory principles to its use, but seek the following:
 - a. Clarification as to why the wording in the pōtae / chapeau differs from that used in Appendix 2 (Biodiversity Off-setting) [345.404, opposed by Meridian FS101.177];
 - b. Clarification of principle 2: Limits to biodiversity compensation as, in their view, this is a crucial principle and the drafting includes a confusing standard of appropriateness, as well as a direction to 'consider the principle' [345.405, opposed by Meridian FS101.178];
 - c. An amendment to principle 3: Scale of biodiversity compensation, to ensure this principle is consistent with the Council's obligation to maintain indigenous biodiversity [345.406, opposed by Meridian FS101.179];

- d. An amendment to principle 7: Time lags [345.407, opposed by Meridian FS101.180]; and
- e. A new principle 10 that replicates principle 11 of Appendix 2 [345.408, opposed by Meridian FS101.181].

720. The amendments sought by Forest and Bird are shown below:

Appendix 3 – Biodiversity Compensation

These principles will be used when assessing the adequacy of proposals for the design and implementation of offsetting as part of resource consent applications.

- 2. Limits to biodiversity compensation: In deciding whether biodiversity compensation is appropriate, a decision maker must consider the principle that many indigenous biodiversity values are not able to be compensated for because biodiversity compensation is not available, and the activity causing the residual adverse effects must be avoided where:
- 3. Scale of biodiversity compensation: The values to be lost through the activity to which the biodiversity compensation applies must be addressed by positive effects to indigenous biodiversity that are proportionate to the adverse effects on indigenous biodiversity. There must be at least no net loss of indigenous biodiversity values as between the values lost through the activity and the values gained through the biodiversity compensation.
- 7. Time lags: The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the compensation site must be minimised—the shortest necessary to achieve the best possible biodiversity outcome and must not exceed the consent period or 35 years whichever is shorter, so that gains are achieved within the consent period and Any time lag must be identified within the biodiversity offset management plan.
- 10. Proposing a biodiversity offset: A proposed biodiversity offset must include a specific biodiversity offset management plan, that:
 - a. Sets out baseline information on the indigenous biodiversity that is potentially impacted by the proposed activity at both the donor and recipient sites, and
 - b. Demonstrates how the requirements set out in this schedule will be carried out, and
 - c. Identifies the monitoring approach that will be used to demonstrate how the principles set out in this schedule will be fulfilled over an appropriate timeframe.

721. GWRC seeks the following:

- a. An amendment to principle 3, on the basis that positive effects offered should outweigh the adverse effects incurred. In the submitter's view this would recognise the inherent risks and uncertainty of compensation, thus aiming for an overall net gain from the exchange and would align with that suggested in the definition for biodiversity compensation in the PDP, the approach taken in

the NRP and NPS-IB exposure draft [351.329];

- b. Deletion of principle 8, on the basis that it is redundant for managing biodiversity compensation exchanges as it essentially just specifies what the limits of biodiversity compensation are, and compensation exchanges are always like for unlike [351.330]; and
- c. An amendment to principle 2 to incorporate direction from principle 8 into the limits for off-setting under the Plan [351.331].

722. The amendments sought by GWRC are shown below:

Appendix 3 – Biodiversity Compensation

- 3. Scale of biodiversity compensation: The values to be lost through the activity to which the biodiversity compensation applies must be addressed by positive effects to indigenous biodiversity that ~~are proportionate to~~ outweigh the adverse effects on indigenous biodiversity.
- ~~8. Trading up: When trading up forms part of biodiversity compensation, the proposal must demonstrate the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal must also show the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.~~
- 2. Limits to biodiversity compensation: In deciding whether biodiversity compensation is appropriate, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be compensated for because:
 - a. The indigenous biodiversity affected is irreplaceable or vulnerable;
 - ba. The values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists;
 - b. There are no technically...”.

Assessment

- 723. As per my recommendations in respect of notified Appendix 2 – Biodiversity Offsetting, I recommend that notified Appendix 3 – Biodiversity Compensation is replaced with Appendix 4 of the NPS-IB in its entirety.
- 724. I note that clause 10 of the NPS-IB compensation appendix refers to financial contributions. I do not propose to include any rule meeting the requirements of s77E of the RMA in respect of financial contributions. This should take place in a future plan change and follow a full consultation process. Consequently, this clause of the compensation framework would be unenforceable but would align with the NPS appendix.

725. Based on my recommendation to align Notified Appendix 3 – Biodiversity Compensation is replaced with Appendix 4 of the NPS-IB, my recommendations in relation to the submission points are as follows:
- a. Submission points seeking the retention of the Appendix as notified are accepted in part, in that the appendix is retained but in an amended form;
 - b. The submission point requesting that Appendix 3 is deleted in its entirety is rejected, on the basis that the appendix achieves alignment with the NPS-IB and the District Plan must give effect to this;
 - c. Submission points that result in alignment between Appendix 3 and the NPS-IB are accepted, in that my recommendation achieves the relief sought by these submission points; and
 - d. Submission points seeking clarification or deletion of specific principles are rejected, in that they would result in a departure from Appendix 4 of the NPS-IB or are rendered moot as a result of the recommended changes.

Summary of recommendations

726. **HS11-ECO-Rec60:** That Appendix 3 – Biodiversity Compensation is amended, with the effect of directly replacing the notified appendix with that from the NPS-IB (Appendix 4), as shown below and at Appendix A.

Principles for Biodiversity Compensation

These principles apply to the use of biodiversity compensation for adverse effects on indigenous biodiversity:

1. **Adherence to effects management hierarchy:** Biodiversity compensation is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.
2. **When biodiversity compensation is not appropriate:** Biodiversity compensation is not appropriate where indigenous biodiversity values are not able to be compensated for. Examples of biodiversity compensation not being appropriate include where:
 - a. the indigenous biodiversity affected is irreplaceable or vulnerable;
 - b. effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible;
 - c. there are no technically feasible options by which to secure a proposed net gain within acceptable timeframes.
3. **Scale of biodiversity compensation:** The indigenous biodiversity values lost through the activity to which the biodiversity compensation applies are addressed by positive effects to indigenous biodiversity (including when indigenous species depend on introduced species for their persistence), that outweigh the adverse effects.
4. **Additionality:** Biodiversity compensation achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse effects of the activity.
5. **Leakage:** Biodiversity compensation design and implementation avoids displacing harm to other indigenous biodiversity in the same or any other location.
6. **Long-term outcomes:** Biodiversity compensation is managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.
7. **Landscape context:** Biodiversity compensation is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.
8. **Time lags:** The delay between loss of, or effects on, indigenous biodiversity values at the impact site and the gain or maturity of indigenous biodiversity at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).

9. **Trading up:** When trading up forms part of biodiversity compensation, the proposal demonstrates that the indigenous biodiversity gains are demonstrably greater or higher than those lost. The proposal also shows the values lost are not to Threatened or At Risk (declining) species or to species considered vulnerable or irreplaceable.
10. **Financial contributions:** A financial contribution is only considered if:
- a. there is no effective option available for delivering biodiversity gains on the ground; and
 - b. it directly funds an intended biodiversity gain or benefit that complies with the rest of these principles.
11. **Science and mātauranga Māori:** The design and implementation of biodiversity compensation is a documented process informed by science, and mātauranga Māori.
12. **Tangata whenua and stakeholder participation:** Opportunity for the effective and early participation of tangata whenua and stakeholders is demonstrated when planning for biodiversity compensation, including its evaluation, selection, design, implementation, and monitoring.
13. **Transparency:** The design and implementation of biodiversity compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.

727. **HS11-ECO-Rec61:** That submissions in relation to Appendix 3 – Biodiversity Compensation are accepted/rejected as set out in Appendix B.

11.25 Appendix 15 - Ecological Assessment

Matters raised by submitters

728. Claire Nolan, James Fraser, Biddy Bunzl, Margaret Franken, Michelle Wolland and Lee Muir [275.49] and the Director-General of Conservation [385.86] support Appendix 15 and seek that this is retained as notified.
729. Forest and Bird [345.409] support the appendix in part, but considers it is missing a requirement to clearly identify the potential effects of the proposal, including any cumulative effects. The submitter supports 2(a) and (b) but notes ECO-P1 needs to be amended to explicitly incorporate these concepts and seeks the following amendments to achieve this:

APP15 - Ecological Assessment

...

2. Identifying the biodiversity values and potential effects of the proposal, including cumulative effects.

Assessment

730. This appendix sets out what an ecological assessment for a resource consent required in respect of a SNA must contain. It is a narrower scope than the specific information requirements set out in clause 3.24 (information requirements) which considered *indigenous biodiversity* more generally. Councils must amend their plans to reflect these requirements.
731. There are also requirements in clause 3.10(4) where the effects management hierarchy is proposed to be followed to demonstrate adherence to those principles and biodiversity offsetting and compensation.
732. There is a degree of commonality between those matters required in the assessment under notified Appendix 15 and the requirements of Clause 3.24. the notified appendix states that it is relevant in respect of the effects management hierarchy which does not align with that of clause 3.24.
733. The requirement to provide an ecological assessment is recommended to be included in all rules in the chapter, including that for indigenous vegetation outside of SNAs (recommended ECO-R4) to which clause 3.24 would be relevant.
734. As such, my view is that it is appropriate to replicate the requirements of clause 3.24 in replacement of notified Appendix 15 – Ecological Assessment with minor modifications to amend internal appendix referencing and reflect a resource consent application situation.
735. I accept in part Forest and Bird [345.409] given this recommendation.

Summary of recommendations

736. **HS11-ECO-Rec62:** That Appendix 15 – Ecological Assessment is amended with the effect of directly replacing the notified appendix with the requirements of clause 3.24 of the NPS-IB as shown below and at Appendix A.

APP15 – Ngā Aromatawai Hauropi

APP15 – Ecological Assessment

1. A resource consent must include a report that:
 - a) is prepared by a suitably qualified ecologist and as required, any other person with suitable expertise, such as someone with expertise in mātauranga Māori; and
 - b) comply with clause (2); and
 - c) be commensurate with the scale and significance (to indigenous biodiversity) of the proposal.

(2) The report must:

- (a) include a description of the existing ecological features and values of the site; and
- (b) include a description of the adverse effects of the proposal on indigenous biodiversity and how those effects will be managed; and
- (c) identify any effects on identified taonga; and
- (d) identify the ecosystem services associated with indigenous biodiversity at the site; and
- (e) include an assessment of the ecological integrity and connectivity within and beyond the site; and
- (f) include mātauranga Māori and tikanga Māori assessment methodology, where relevant; and
- (g) if biodiversity offsetting is proposed, set out:
 - (i) a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and
 - (ii) a description of how the relevant principles in Appendix 2- Biodiversity Offsetting have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving a net gain in biodiversity values; and
- (h) if biodiversity compensation is proposed, set out:
 - (i) a detailed plan of what is proposed; and
 - (ii) a description of how the relevant principles in Appendix 3 – Biodiversity Compensation have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving its outcomes.

737. **HS11-ECO-Rec63:** That submissions in relation to Appendix 15 – Ecological Assessment are accepted/rejected as set out in Appendix B.

11.26 Schedule 9 – Indigenous Tree Sizes

Matters raised by submitters

738. Forest and Bird [345.412, opposed by Kāinga Ora FS89.159] oppose SCHED9, on the basis that they seek the reinstatement of SCHED9 of the DDP – being the schedule titled ‘Urban Environment Allotments’ that identified residential SNAs. They have not raised specific concerns with respect to the notified SCHED9.
739. VicLabour [414.61] seeks the same amendment as Forest and Bird above, being that SCHED9 is amended to reintroduce SNAs on residential land. They do not have specific comments in relation to the notified SCHED9.

Assessment

740. The purpose of schedule 9 is to identify particular species of trees of an age which have important roles contributing to ecosystem functioning. If these trees were to be removed there would be adverse effects on indigenous biodiversity values of that ecosystem.
741. The schedule and accordingly restrictions on the removal of these specific trees is triggered through standards ECO-S2 and ECO-S3 by measuring tree trunk diameter at 1.4m above ground level. I have also proposed to include the schedule in my proposed new rule for ‘outside SNA’ indigenous vegetation removal, discussed in section 11.2
742. Interestingly, Schedule 9 includes a column for tree height which is not referenced in ECO-S2 and ECO-S3. I do not see how tree height can therefore be a relevant consideration against the standard and that the ‘height’ column serves no purpose. Having sought ecological advice, I have been informed that height is not a suitable proxy for tree age or ecological contribution in the same way which tree diameter is.
743. Given that the height column is redundant, it adds no value and creates confusion and I therefore recommend that it is removed as a minor and inconsequential amendment.
744. The relief sought by the submitters is addressed at section 8.1 of this report, where I have recommended that SNAs are not applied to residential land as a part of this hearing process. Consequently, I recommend the submission points [345.412 opposed by FS89.159, and 414.61] are rejected.

Summary of recommendations

745. **HS11-ECO-Rec64:** That Schedule 9 – Indigenous Tree Sizes is amended as shown below and in Appendix A.

SCHED9 – Ngā Rahinga o Ngā Rākau Taketake

SCHED9 – Indigenous Tree Sizes

Indigenous Tree Sizes

| Common Name | Species | Māori Name | Dimensions that relate to rules | |
|------------------------|------------------------|---------------|---------------------------------|---|
| | | | Diameter (circumference in cm) | Height (m) *Note whole column removed but difficult to see with number four* |
| Akeake | Dodonaea viscosa | Akeake | 15.0 (47) | 3 |
| Black maire | Nestegis cunninghamii | Maire rau nui | 15.0 (47) | 4 |
| Black pine | Prumnopitys taxifolia | Matai | 15.0 (47) | 4 |
| Broadleaf | Griselinia lucida | Puka | 15.0 (47) | 4 |
| Brown pine | Prumnopitys ferruginea | Miro | 15.0 (47) | 4 |
| Cabbage Tree | Cordyline australis | Ti kouka | 30.0 (95) | 4 |
| Cork Tree | Entelea arborescens | Whau | 15.0 (47) | 4 |
| Hinau | Elaeocarpus dentatus | Hinau | 15.0 (47) | 4 |
| Kaikomako | Pennantia corymbosa | Kaikomako | 15.0 (47) | 3 |
| Kamahi | Weinmannia racemosa | Kamahi | 15.0 (47) | 4 |
| Kohekohe | Dysoxylum spectabile | Kohekohe | 15.0 (47) | 4 |
| Kowhai | Sophora microphylla | Kowhai | 30.0 (95) | 4 |
| Lacebark | Hoheria sextylosa | - | 15.0 (47) | 4 |
| Large leaved milk tree | Stebulus banksii | Turepo | 15.0 (47) | 4 |
| Marbleleaf | Carpodetus serratus | Putaputaweta | 15.0 (47) | 4 |
| Narrow leaved lacebark | Hoheria angustifolia | - | 15.0 (47) | 4 |

| | | | | |
|-------------------------|-------------------------------------|-----------------------|-----------|---|
| Narrow-leaved maire | Nestegis montana | Maire kotae or rororo | 15.0 (47) | 4 |
| New Zealand honeysuckle | Knightia excelsa | Rewarewa | 15.0 (47) | 4 |
| New Zealand myrtle | Lophomyrtus bullata | Ramarama | 15.0 (47) | 4 |
| New Zealand myrtle | Lophomyrtus obcordata | Rohutu | 15.0 (47) | 4 |
| Nikau | Rhopalostylis sapida | Nikau | 15.0 (47) | 4 |
| Northern Rata | Metrosideros robusta | Rata | 15.0 (47) | 4 |
| Pigeonwood | Hedycarya arborea | Porokaiwhiri | 15.0 (47) | 4 |
| Poataniwha | Melicope simplex | Poataniwha | 15.0 (47) | 4 |
| Pokaka | Elaeocarpus hookerianus | Pokaka | 15.0 (47) | 4 |
| Pukatea | Laurelia novaezealandiae | Pukatea | 15.0 (47) | 4 |
| Red mapou | Myrsine australis | Matipo | 15.0 (47) | 3 |
| Red Pine | Dacrydium cupressinum | Rimu | 15.0 (47) | 4 |
| Ribbonwood | Plagianthus regius | Manatu | 15.0 (47) | 4 |
| Small leaved milk tree | Streblus heterophyllus | Turepo | 15.0 (47) | 4 |
| Swamp maire | Syzygium maire | Maire tawake | 15.0 (47) | 4 |
| Tawa | Beilschmiedia tawa | Tawa | 15.0 (47) | 4 |
| Tea tree | Leptospermum scoparium | Manuka | 15.0 (47) | 3 |
| Thin-leaved coprosma | Coprosma areolata | - | 15.0 (47) | 3 |
| Titoki | Alectryon excelsus | Titoki | 15.0 (47) | 4 |
| Toro | Myrsine salicina | Toro | 15.0 (47) | 4 |
| Totara | Podocarpus totara | Totara | 30.0 (47) | 4 |
| Tree fuchsia | Fuchsia excorticata | Kotukutuku | 15.0 (47) | 4 |
| Wharangi | Melicope ternata | Wharangi | 15.0 (47) | 3 |
| White maire | Nestegis lanceolata | Maire rauriki | 15.0 (47) | 4 |
| White Pine | Dacrycarpus dacrydioides | Kahikatea | 15.0 (47) | 4 |
| White tea tree | Kunzea robusta or Kunzea amathicola | Kanuka | 15.0 (47) | 3 |
| Whiteywood | Melicytus ramiflorus | Mahoe | 30.0 (95) | 4 |

| | | | | |
|--------------------|---------------------|-----------------|-----------|---|
| Wire netting brush | Corokia cotoneaster | Korokio taranga | 15.0 (47) | 3 |
|--------------------|---------------------|-----------------|-----------|---|

746. **HS11-ECO-Rec65:** That submissions in relation to Schedule 9 – Indigenous Trees Sizes are accepted/rejected as set out in Appendix B.

12.0 Infrastructure – Ecosystems and Indigenous Biodiversity Chapter

12.1 NPS-IB and the INF-ECO Chapter

747. The purpose of the INF-ECO chapter is to reconcile the operation, maintenance, upgrade and development of infrastructure within SNAs.
748. As detailed in sections 5 and 6 of this s42A report, the NPS-IB was gazetted post notification of the PDP. In terms of infrastructure, the NPS-IB provides a definition of ‘specified infrastructure’. Clauses 3.10 and 3.11 of the NPS-IB then provide guidance as to how the NPS-IB is to be implemented in terms of managing adverse effects on SNAs.
749. Clause 3.11(1)(a)(i) provides that for *“the construction or upgrade of specified infrastructure that provides significant national or regional public benefit”* any adverse effects on a SNA must be managed in accordance with clause 3.10(3) and 3.10(4) (which relate to application of the effects management hierarchy).
750. Clause 3.15(2) also provides direction for some infrastructure activities in a SNA. Clause 3.15(2) directs local authorities to provide provisions in their District Plans to enable specified established activities within SNAs, such as existing infrastructure, to continue where the effects on SNAs are no greater in intensity, scale or character over time, and do not result in the loss of extent or degradation of ecological integrity of a SNA. Clause 3.15(2) therefore has an influence on clause 3.11(1)(a)(i), meaning that, in terms of upgrades of existing infrastructure in a SNA, clause 3.11(1)(a)(i) only applies to upgrades that do not meet the requirements of clause 3.15(2).
751. Key to understanding how the NPS-IB is implemented is an understanding of how specified infrastructure as defined in the NPS-IB aligns with the PDP.
752. The definition of ‘specified infrastructure’ in the NPS-IB is:

Specified infrastructure means any of the following:

- (a) *infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002);*
- (b) *regionally or nationally significant infrastructure identified as such in a National*

Policy Statement, the New Zealand Coastal Policy Statement, or a regional policy statement or plan:

- (c) *infrastructure that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority, in an urban environment (as defined in the National Policy Statement on Urban Development 2020):*
- (d) *any public flood control, flood protection, or drainage works carried out:*
 - i. by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or*
 - ii. for the purpose of drainage, by drainage districts under the Land Drainage Act 1908:*
- (e) *defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990.*

753. To understand how the definition applies to the infrastructure provided for under the PDP I have produced the table below. This table sets out the PDP definition of infrastructure in the left hand column, with the remaining columns detailing how the constituents part of that definition align with clauses (a) and (b) of the NPS-IB definition of specified infrastructure.

| 'Specified Infrastructure' defined in NPS-IB compared to RMA definition | | |
|--|---|---|
| RMA definition (also PDP definition of Infrastructure) | NPS-IB Definition of 'Specified Infrastructure' | |
| | Lifeline Utility as Defined in the CDEMA 2002² | Regionally Significant Infrastructure as defined in the RPS (Change 1) |
| (a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy: | Part B(1) – An entity that produces, supplies, or distributes manufactured gas or natural gas (whether it is supplied or distributed through a network or in bottles of more than 20 kg of gas). Part B(7) – An entity that produces, processes, or distributes to retail outlets and bulk customers any petroleum products used | pipelines for the distribution or transmission of natural or manufactured gas or petroleum, including any associated fittings, appurtenances, fixtures or equipment |

² As defined in Schedule 1 to the CDEMA, [Civil Defence Emergency Management Act 2002 No 33 \(as at 01 July 2024\)](#), [Public Act 17 Functions of Civil Defence Emergency Management Groups – New Zealand Legislation](#)

| | | |
|---|---|---|
| | as an energy source or an essential lubricant or additive for motors for machinery. | |
| (b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001: | Part B(5) – An entity that provides a telecommunications network (within the meaning of the Telecommunications Act 1987). | network operated for the purposes of telecommunications, as defined in section 5 of the Telecommunications Act 2001 |
| (c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989: | Part A(1) – Radio New Zealand Limited | a network operated for the purpose of radiocommunications, as defined in section 2(1) of the Radio Communications Act 1989 |
| (d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person— (i) uses them in connection with the generation of electricity for the person's use; and (ii) does not use them to generate any electricity for supply to any other person: | Part B(2) – An entity that generates electricity for distribution through a network or distributes electricity through a network. | the National grid facilities for the generation and/or transmission of electricity where it is supplied to the National grid and/or the local distribution network facilities for the electricity distribution network, where it is 11kV and above. This excludes private connections to the local distribution network |
| (e) a water supply distribution system, including a system for irrigation: | Part B(3) An entity that supplies or distributes water to the inhabitants of a city, district, or other place. | the local authority water supply network (including intake structures) and water treatments plants |
| (f) a drainage or sewerage system: | Part B(4) - An entity that provides a waste water or | the local authority wastewater and |

| | | |
|--|---|--|
| | sewerage network or that disposes of sewage or storm water. | stormwater networks and systems, including treatment plants and storage and discharge facilities |
| (g) structures for transport on land by cycleways, rail, roads, walkways, or any other means: | Part B(6) - An entity that provides a road network (including State highways). Part B(8) - An entity that produces, processes, or distributes to retail outlets and bulk customers any petroleum products used as an energy source or an essential lubricant or additive for motors for machinery. | the Strategic Transport Network (including ancillary structures required to operate, maintain, upgrade and develop that network) Wellington City bus terminal and Wellington Railway Station terminus |
| (h) facilities for the loading or unloading of cargo or passengers transported on land by any means: | Part A(6) - The port company (as defined in section 2(1) of the Port Companies Act 1988) that carries out port-related commercial activities at ... Wellington. | Commercial Port Areas and infrastructure associated with Port related activities in the Lambton Harbour Area within Wellington Harbour (Port Nicholson) and adjacent land used in association with the movement of cargo and passengers and including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines |
| (i) an airport as defined in section 2 of the Airport Authorities Act 1966: | Part A (3) - The company (as defined in section 2 of the Wellington Airport Act 1990) that operates Wellington international airport. | Wellington International Airport |
| (j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990: | | |
| (k) facilities for the loading or unloading of cargo or passengers carried by | Part A(6) - The port company (as defined in section 2(1) of the Port Companies Act 1988) that | Commercial Port Areas and infrastructure associated with Port related activities in the |

| | | |
|---|---|--|
| sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988: | carries out port-related commercial activities at ... Wellington. | Lambton Harbour Area within Wellington Harbour (Port Nicholson) and adjacent land used in association with the movement of cargo and passengers and including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines |
|---|---|--|

754. For ease of reference, I have limited this assessment to parts (a) and (b) of the NPS-IB definition of specified infrastructure, as these two clauses provides coverage of all constituent parts of the PDP definition of infrastructure (with the exception of navigation installations, which are not provided for in parts (c), (d) or (e) of the NPS-IB definition of specified infrastructure).
755. As demonstrated in the above analysis, all infrastructure in the PDP, except for navigation installations, *is* specified infrastructure in the NPS-IB, either by being a lifeline utility in the CDEMA, or by being Regionally Significant Infrastructure in the RPS. I note that there is some infrastructure, such as local roads and local electricity distribution that is not recognised as Regionally Significant Infrastructure in the RPS, but does form part of lifeline utilities under the CDEMA. Nonetheless they are captured within the NPS-IB definition of ‘specified infrastructure’ for the purpose of implementation.
756. Consequently, specified infrastructure is exempted through clause 3.11(1)(a)(i) from the clause 3.10(2) requirement to avoid adverse effects on indigenous biodiversity for all infrastructure in SNAs (except for navigation aids).
757. In accordance with clause 3.10(3) the effects management hierarchy must be applied for:
- a. upgrades (that are greater in intensity, scale or character over time, and do not result in the loss of extent or degradation of ecological integrity of a SNA); and
 - b. new infrastructure within a SNA.
758. Considering this in the first instance I have reviewed the notified chapter for its alignment with the NPS-IB followed by amendments sought in submissions.

12.2 General Submissions

Matters raised by submitters

- 759. WCC ERG [377.39] seeks to retain the INF-ECO chapter as notified.
- 760. Forest and Bird [345.57, opposed by Transpower FS29.22, WIAL FS36.71, Meridian FS101.48 and Waka Kotahi FS103.10] seek to amend the INF-ECO chapter to mirror the provisions in the ECO chapter to apply a similar level of protection.
- 761. Transpower [315.104] seek to amend the INF-ECO chapter provisions to recognise and provide for the National Grid as set out in subsequent submission points.

Assessment

- 762. I agree that the INF-ECO chapter should, as far as it can within the structure outlined above, mirror the ECO chapter. Given the direction provided in clauses 3.10(2), 3.10(3) and 3.10(4) of the NPS-IB, as influenced by clause 3.11, any 'specified infrastructure', which constitutes nearly all infrastructure provided in Wellington City, must be considered against the effects management hierarchy.
- 763. I consider that this is generally achieved in the notified INF-ECO chapter, where all new infrastructure and upgrading of existing infrastructure within a SNA requires resource consent. Through the recommendations on the provisions below (namely that upgrading of existing infrastructure, I consider that, where necessary, this alignment has been improved. With respect to navigation installations, in Wellington City these are primarily provided for in the PDP through designations. Given this appears to be Airways preferred method under the RMA for navigation installations, I do not consider it efficient to provide a different framework in the INF-ECO chapter solely for such infrastructure.
- 764. Overall, I consider that the purpose of the INF-ECO chapter is consistent with the requirements of the NPS-IB in respect to addressing the effects of infrastructure on SNAs.
- 765. Given the commentary above, I recommend that the Forest and Bird submission point [345.57, opposed by FS29.22, FS36.71, FS101.48 and Waka FS103.10] is accepted in part. In my view, the changes recommended above address the relief sought.
- 766. In terms of the Transpower submission points [315.104, 315.106 - 315.109], the Infrastructure – National Grid (**INF-NG**) chapter, which was recommended through Hearing Stream 9, is a standalone chapter that provides for the national grid. It is not subject to the ECO chapter, rather it reconciles the national grid and SNAs within that

chapter. Consequently, it is not necessary to refer to the National Grid in the INF-ECO chapter. This is also true of Renewable electricity generation which is reconciled through the REG chapter. As such, I recommend that explanatory text is included in the introduction to the INF-ECO chapter to this effect.

767. Given this recommendation, the WCC-ERG submission point [377.39] should be accepted in part.

Summary of recommendations

768. **HS11-ECO-Rec66:** Amend the introduction to explain that the Infrastructure – Ecosystems and Indigenous Biodiversity chapter does not apply to the National Grid as set out below and at Appendix A.

Introduction

This sub-chapter applies to infrastructure (with the exception of the National Grid and renewable electricity generation) within the significant natural areas overlays identified within SCHED8 ~~the Ecosystems and Indigenous Biodiversity Chapter~~. It applies in addition to the principal Infrastructure Chapter.

Note, the amendment to refer to SCHED8 in the above recommendation is a Clause 16 change that provides greater specificity as to how the INF-ECO chapter is applied.

769. **HS11-ECO-Re67:** That general submission points relating to the Infrastructure – Ecosystems and Indigenous Biodiversity chapter are accepted/rejected as set out at Appendix B.

12.3 New INF-ECO Provisions

770. Forest and Bird [345.58, opposed by Transpower FS29.23 and Meridian FS101.49] seek to add a new policy to give effect to policy 11 of the NZCPS as follows:

INF-ECO-Px - All infrastructure activities in the coastal environment

Only allow activities within a significant natural area in the coastal environment where it can be demonstrated that they:

1. Avoid adverse effects on the matters in Policy 11(a) of the New Zealand Coastal Policy Statement 2010.
2. Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on the matters in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; and
3. Protect other indigenous biodiversity values in accordance with ECO-P1.

771. Transpower [315.110] seek to add a new National Grid specific policy as follows:

INF-NG-P2 - Operation, and maintenance and minor upgrade of the National Grid

Provide for the operation, maintenance and minor upgrade of the National Grid while managing the adverse effects of these activities.

772. Transpower [315.111] seek to add a new National Grid specific policy to replace INF-ECO-P37 as follows:

INF-NG-P6 - Development of the National Grid

Provide for the development of the National Grid

1. In urban zoned areas, development should minimise adverse effects on urban amenity and should avoid material adverse effects on the Commercial and Mixed-Use zones, and areas of high recreational or amenity value and existing sensitive activities
2. Seek to avoid the adverse effects of the National Grid within areas identified in SCHED10 – Outstanding Natural Features and Landscapes, SCHED8 - Significant Natural Areas, and SCHED11 – Special Amenity Landscapes, outside the coastal environment
3. Where the National Grid has a functional need or operational need to locate within the coastal environment, manage adverse effects by:
 - a. Seeking to avoid adverse effects on areas identified in SCHED10 – Outstanding Natural Features and Landscapes, SCHED12 - High Coastal Natural Character Areas, SCHED8 - Significant Natural Areas, SCHED11 – Special Amenity Landscapes, and the Coastal Margin.
 - b. Where it is not practicable to avoid adverse effects on the values of the areas in SCHED10 – Outstanding Natural Features and Landscapes, SCHED12 - High Coastal Natural Character Areas, SCHED8 - Significant Natural Areas, SCHED11 – Special

Amenity Landscapes; and the Coastal Margin because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values.

- c. Seeking to avoid significant adverse effects on:
 - i. other areas of natural character
 - ii. natural attributes and character of other natural features and natural landscapes
 - iii. indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010
 - d. Avoiding, remedying or mitigating other adverse effects to the extent practicable; and
 - e. Recognising there may be some areas within SCHED10 – Outstanding Natural Features and Landscapes, SCHED12 - High Coastal Natural Character Areas, SCHED8 - Significant Natural Areas, SCHED11 – Special Amenity Landscapes; and the Coastal Margin, where avoidance of adverse effects is required to protect the identified values and characteristics.
4. Remedy or mitigate any adverse effects from the operation, maintenance, upgrade, major upgrade or development of the National Grid which cannot be avoided, to the extent practicable; and
5. When considering the adverse effects in respect of 1-3 above;
- a. Have regard to the extent to which adverse effects have been avoided, remedied or mitigated by the route, site and method selection; and
 - b. Consider the constraints arising from the operational needs or functional needs of the National Grid, when considering measures to avoid, remedy or mitigate any adverse effects.

773. WIAL [406.143, supported by KiwiRail FS72.32 and Meridian FS101.50] seek to add a new policy to provide for the safe and/or efficient operation of regionally significant infrastructure as follows:

INF-ECO-P38 - Appropriate vegetation removal in significant natural areas

Enable vegetation removal within significant natural areas identified within SCHED8 where:

- 1. The vegetation removal is required to provide for the ongoing and safe operation of regionally significant infrastructure; and,
- 2. Any adverse effects on indigenous biodiversity values within a significant natural area are considered in accordance with ECO-P1.

774. WIAL [406.144, supported by KiwiRail FS72.33 and Meridian FS101.51] seek to add a new rule to provide for the safe and/or efficient operation of regionally significant infrastructure as follows:

INF-ECO-R43A

All Zones

Removal of vegetation within significant natural areas to protect regionally significant infrastructure

1. Activity Status: Restricted Discretionary

Matters of discretion are:

1. The matters in INF-ECO-P38.

Assessment

775. In my view, the recommended amendments to INF-ECO-P34 provide appropriate alignment with policy 11 of the NZCPS, and gives effect to the submission point raised by Forest and Bird [345.58, opposed by FS29.23 and FS101.49].
776. The relief sought by Transpower [315.110 – 314.111], has been given effect to through the recommendation at Hearing Stream 9 to include a standalone INF-NG chapter in the PDP.
777. In considering the WIAL submission points WIAL [406.143, supported by FS72.32 and FS101.50; and 406.144, supported by FS72.33 and FS101.51], I consider that the policies and rules as recommended to be amended through this section 42A report provide the same relief that the submitter seeks, but does so in a way which aligns with the NPS-IB. As such, I consider that these points should be rejected.
778. Consequently, no amendments are recommended as a result of these submission points.

Summary of recommendations

779. **HS11-ECO-Rec68:** That no new provisions are added to the Infrastructure – Ecosystems and Indigenous Biodiversity chapter, notwithstanding that a new INF-NG chapter would achieve the relief sought.
780. **HS11-ECO-Rec69:** That submission points requesting new Infrastructure – Ecosystems and Indigenous Biodiversity provisions are accepted/rejected as set out at Appendix B.

12.4 INF-ECO Introduction

Matters raised by submitters

781. Meridian [228.27, 228.28] seeks to amend the Introduction to the chapter by inserting the following or a similar clarification note under the heading ‘Other relevant District Plan provisions’:

| |
|--|
| <p><u>The rules applicable to renewable electricity generation activities are contained in Chapter REG Renewable Electricity Generation. The rules in Chapter INF-ECO Infrastructure Ecosystems and Indigenous Biodiversity do not apply to renewable electricity generation activities.</u></p> |
|--|

782. Taranaki Whānui [389.57, supported by GWRC FS84.120] seek to amend the ‘Other relevant District Plan provisions’ to include the Sites and Areas of Significance to Māori chapter.
783. Transpower [315.105] seek to amend the Introduction to the chapter to clarify that the National Grid and Gas Transmission Pipelines Corridor are subject to specific provisions within the sub-chapter and that other general sub-chapter provisions do not apply to the National Grid.

Assessment

784. All Infrastructure chapters excluding the INF-ECO chapter were addressed during Hearing Stream 9. The Council’s consultant planner for this hearing was Mr Tom Anderson. Mr Anderson’s section 42A report, supplementary planning evidence and right of reply are all available [here](#).
785. The Renewable electricity generation chapter was also heard in that stream. The Council’s Planner was Mr Joe Jeffries. It was established that the REG chapter is a standalone chapter which reconciles SNAs and renewable electricity generation.
786. Given my recommendation above I agree in part with the amendment sought by Meridian [228.27, 228.28] noting I have included different wording to this effect, clarifying these entire chapters do not apply, rather than just rules.
787. Likewise, I understand that Taranaki Whānui raised similar points to the above on the other sub-chapters to the Infrastructure chapter, and these were addressed in Hearing Stream 9. In any instance, should any Sites and Areas of Significance to Māori be located in an SNA, then the Infrastructure - Other Overlays provisions would apply as well as the INF-ECO chapter. As such, I recommend the submission point from Taranaki Whānui [389.57, supported FS84.120] is rejected.












788. Mr Anderson has recommended that all references to the National Grid be removed from the INF-ECO chapter and a new standalone National Grid chapter be added to the District Plan. I consider that this would give effect to the relief sought by Transpower [315.105]. Given this recommendation, I recommend at HS11-ECO-Recx below that all policies and rules referencing the National Grid are deleted from the INF-ECO chapter in their entirety.
789. I note that this recommendation also gives effect to the remaining Transpower submission points [315.106, 315.107, 315.108, 315.109, 315.112, 315.113, 315.114, 315.115, 315.116, 315.117, 315.118 and 315.119], as well as addressing other submitters who submitted on the INF-ECO policies and rules relating to the National Grid.
790. A consequential change of this recommendation is that gas transmission specific provisions are also removed, with gas transmission requiring consideration as any other infrastructure would. I consider that this aligns with the direction provided in the NPS-IB, in that, aside from Transpower's assets (and Renewable Electricity Generation infrastructure, which is not subject to the INF-ECO chapter in any case), all (specified) infrastructure in SNAs is to be treated the same.

Summary of recommendations

791. **HS11-ECO-Rec70:** That all subsequent references to the National Grid are removed from the Infrastructure – Ecosystems and Biodiversity chapter. This is achieved by deleting INF-ECO-P35, INF-ECO-P36, INF-ECO-P37, INF-ECO-R44, INF-ECO-R45, INF-ECO-R46, INF-ECO-R47 and INF-ECO-S20(a) as set out below and at Appendix A.

Policies

| | |
|--------------------|--|
| INF-ECO-P35 | <p>Operation, maintenance and repair of existing National Grid infrastructure within a significant natural area.</p> <p>- Provide for the operation, maintenance and repair of existing transmission lines within significant natural areas where the activity, including associated earthworks, does not adversely affect the biodiversity values.</p> |
| INF-ECO-P36 | <p>Upgrading the National Grid within significant natural areas</p> <p>- Provide for upgrading of the National Grid within significant natural areas by applying the effects management hierarchy in ECO-P2.</p> |
| INF-ECO-P37 | <p>New development of National Grid within significant natural areas</p> <p>- Give priority to avoiding adverse effects of the National Grid on significant natural areas by applying the effects management hierarchy in ECO-P2 when located within significant natural areas, by:</p> <p>-</p> <ol style="list-style-type: none"> 1. Having regard to the extent to which adverse effects have been avoided, remedied or mitigated by the route, site and method selection and techniques and measures proposed; and 2. Considering the constraints arising from the operational needs and functional needs of the National Grid, when considering measures to avoid, remedy or mitigate any adverse effects. |

| Rules | |
|---|--|
| INF-ECO-R44  | Operation, maintenance and repair of existing National Grid (NG) & Gas Transmission Pipeline Corridor (GTPC) infrastructure within a significant natural area |
|  All Zones | <p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. Compliance is achieved with the following standards:</p> <ul style="list-style-type: none"> i. INF-ECO-S19; and ii. INF-ECO-S20. |
|  All Zones | <p>2. Activity Status: Controlled</p> <p>Where:</p> <p>a. Trimming, felling or removing any tree or vegetation is undertaken to reduce the risk to a transmission line within significant natural area.</p> <p>Matters of control are:-</p> <ul style="list-style-type: none"> 1. Replanting; 2. Disposal of trees and vegetation; and 3. Ecological effects assessment in accordance with the effects management hierarchy in ECO-P2. |
|  All Zones | <p>3. Activity status: Restricted Discretionary</p> <p>Where:-</p> <p>a. Compliance with the requirements of INF-ECO-R44.1 or INF-ECO-R44.2 cannot be achieved.</p> <p>Matters of discretion are:</p> <ul style="list-style-type: none"> 1. The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard; and 2. The matters in INF-ECO-P33. |
| INF-ECO-R45  | Upgrading of existing National Grid (NG) infrastructure within a significant natural area |
|  All Zones | <p>1. Activity status: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ul style="list-style-type: none"> 1. The matters in INF-ECO-P36. |
| INF-ECO-R46  | Upgrading of existing Gas Transmission Pipeline Corridor (GTPC) infrastructure within a significant natural area |
|  All Zones | <p>1. Activity status: Restricted Discretionary</p> <p>Where:</p> <p>a. The infrastructure is located underground; or</p> <p>b. The infrastructure is located within an existing road reserve.</p> <p>Matters of discretion are:-</p> <ul style="list-style-type: none"> 1. The matters in INF-ECO-P36. |
|  All Zones | <p>2. Activity status: Discretionary</p> <p>Where:</p> <p>a. Compliance with any of the requirements of INF-ECO-R46.1 cannot be achieved.</p> |
| INF-ECO-R47  | New National Grid (NG) & Gas Transmission Pipeline Corridor (GTPC) infrastructure within a significant natural area |
|  All Zones | <p>1. Activity status: Discretionary</p> |

| Standards | | |
|-------------|---|---|
| INF-ECO-S20 | Earthworks within a significant natural area | |
| All Zones | <p>1. Earthworks within a significant natural area must not exceed:</p> <p>a. More than 50m³ per transmission line support structure; or</p> <p>b. 100m³ per access track.</p> | <p>Assessment criteria:</p> <ol style="list-style-type: none"> 1. Operational or functional needs of infrastructure; and 2. The effect of the activity and removal on the identified biodiversity values of the significant natural area and the measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts. |

792. **HS11- ECO-Rec71:** That submission points relating to the provisions in the Infrastructure – Ecosystems and Indigenous Biodiversity chapter are accepted/rejected as set out at Appendix B.

12.5 INF-ECO-P33: Operation, maintenance and repair of existing infrastructure within a significant natural area

Matters raised by submitters

793. Forest and Bird [345.59], Waka Kotahi [370.114, 370.115], the Director-General of Conservation [385.29] and KiwiRail [408.65] support INF-ECO-P33 and seek that this is retained as notified.
794. WIAL [406.145, 406.146, opposed in part by Meridian FS101.52] opposes INF-P33 in part and seeks that this is amended to better align with the NZCPS, particularly with respect to recognising that there may be operational and functional need to locate infrastructure within SNAs and providing a consenting pathway for the removal of vegetation where required to protect the safe operating and functioning of this infrastructure. The submitter is concerned that the policy as notified focusses on controlling the removal of vegetation from the SNA. WIAL considers it is more appropriate to avoid enhancing habitats that have the potential to create a risk to aircraft in close proximity to the Airport and instead encourage them to locate elsewhere within the coastal environment. The amendments sought by WIAL are as follows:

INF-ECO-P33 – Operation, maintenance and repair of existing infrastructure within a significant natural area

Provide for the operation, maintenance and repair of existing infrastructure within significant natural areas where ~~the activity, including associated earthworks, not adversely affect the biodiversity values. it can be demonstrated that:~~

1. There is an operational need or functional need that means the infrastructure's location cannot be practicably avoided; and
2. Any adverse effects on indigenous biodiversity values within a significant natural area are applied in accordance with ECO-P1.

795. Alternatively, and for the same reasons, WIAL [406.147, opposed in part by Meridian FS101.53] seeks that INF-ECO-P33 is deleted in its entirety.

Assessment

796. Maintenance and repair of infrastructure is defined in the PDP as any “*work or activity necessary to continue the operation or functioning of existing infrastructure. It does not include upgrading, but does include replacement of an existing structure with a new structure of identical dimensions*”. As such, maintenance and repair is limited in its extent of what can be done to the infrastructure, and therefore limited in its extent as to what effects can reasonably occur on indigenous biodiversity.
797. In terms of WIAL’s submission points, as the policy applies to existing infrastructure in a particular location, a policy that requires justification of the location of existing infrastructure is not appropriate. The infrastructure already exists in that location, and it is appropriate to provide for the operation, maintenance and repair of that infrastructure. In terms of clause (2) as sought by WIAL, effects on indigenous biodiversity are provided for through the limited work which can be done as maintenance and repair by definition in the Plan.
798. As such, WIALs submission points [406.145, 406.146, opposed in part by FS101.52 and 406.147, opposed in part by Meridian FS101.53], in my view, should be rejected. No amendments are recommended to INF-ECO-P33.

Summary of recommendations

799. **HS11-ECO-Rec72:** That INF-ECO-P33 (Operation, maintenance and repair of existing infrastructure within a significant natural area) is confirmed as notified.
800. **HS11-ECO-Rec73:** That submission points relating to INF-ECO-P33 (Operation, maintenance and repair of existing infrastructure within a significant natural area) are accepted/rejected as set out at Appendix B.

12.6 INF-ECO-P34: Upgrades to and new infrastructure within a significant natural area

Matters raised by submitters

801. Waka Kotahi [370.116], the Director-General of Conservation [385.30] and KiwiRail [408.65] support INF-ECO-P34 and seek that this is retained as notified.
802. Chorus, Spark and Vodafone [99.50, supported by Meridian FS101.54], Powerco Limited [127.32, supported by Meridian FS104.55] identify that ECO-P34 incorrectly cross-references to ECO-P2, whereas the reference should be to the effects management hierarchy as set out in ECO-P1. The submitters seek that this error is rectified.
803. Forest and Bird [345.60] also identifies the incorrect reference to ECO-P2 in INF-ECO-P34. The submitter seeks that this is amended, along with additional changes to INF-ECO-P34 to give effect to the changes they have requested in relation to the wording of ECO-P1. The submitter opposes the reference to operational or functional needs within INF-ECO-P34 as it could encompass a very wide range of considerations. This change is opposed by Chorus, Spark and Vodafone [FS25.13], Powerco Limited [FS61.13] and KiwiRail [FS72.34]. Additionally, the submitter seeks that INF-ECO-P34 includes a cross-reference to ECO-P5. This change is supported by Meridian [FS101.57]. The changes sought by Forest and Bird are shown below:

INF-ECO-P34 – Upgrades to and new infrastructure within a significant natural area

Consider allowing ~~Allow~~ for upgrades to existing infrastructure and for new infrastructure within significant natural areas only where it can be demonstrated that:

- ~~1. There is an operational need or functional need that means the infrastructure's location cannot be avoided; and~~
2. Any adverse effects on indigenous biodiversity values within a significant natural area are managed applied in accordance with ECO-P1 ~~ECO-P2~~ and ECO-P5.

804. For the same reasons as its opposition in relation to INF-ECO-P33, WIAL opposes INF-ECO-P34, WIAL [406.148, 406.149] and seeks that the policy deleted in its entirety. The Alternatively, WIAL [406.150, supported in part by Meridian FS101.56] requests that INF-ECO-P34 is amended as follows:

INF-ECO-P34 – Upgrades to and new infrastructure within a significant natural area

Allow for upgrades to existing infrastructure and for new infrastructure within significant natural areas where it can be demonstrated that:

1. There is an operational need or functional need that means the infrastructure's location cannot be practicably avoided; and
2. Any adverse effects on indigenous biodiversity values within a significant natural area are managed applied in accordance with ECO-P1 ~~ECO-P2~~.

Assessment

805. As discussed elsewhere in this report, I agree that the cross reference to ECO-P2 is incorrect, and this should be updated to ECO-P5 to ensure that the effects management hierarchy is in play as a matter of discretion when rules require INF-ECO-P34 to be considered.
806. In terms of Forest and Bird's submission point [345.60], I consider there is no need to introduce the word 'consider' at the outset to the policy. The policy sets out where upgrades to existing infrastructure or new infrastructure within significant natural areas are allowed, being where there is an operational and functional need that means the location of the infrastructure cannot be avoided, and effects on indigenous biodiversity values within a significant natural area are managed in accordance with the effects management hierarchy. These are relevant considerations, which essentially require an alternatives assessment, as well as aligning with the direction provided in clause 3.10(3) of the NPS-IB.
807. I recommended that the wording in respect of effects on coastal SNA is copied from renumbered ECO-P6 (Coastal SNAs) and included in INF-ECO-P34 as it is aligned with the recommendations of the reporting officer for RPS-PC1 and appropriately gives effect to the NZCPS.
808. The addition of the term practicably as requested by WIAL is an appropriate inclusion to the policy when considering operational or functional need [406.148, 406.149]. Practicability should be a relevant consideration to stop frivolous or vexatious alternatives from needing to be considered. It does not offend the NPS-IB, as the policy has a requirement to assess any proposed upgrade against the effects management hierarchy.

Summary of recommendations

809. **HS11-ECO-Rec74:** That INF-ECO-P34 (Upgrades to and new infrastructure within a significant natural area) is amended as set out below and at Appendix A.

| | |
|-------------|--|
| INF-ECO-P34 | <p>Upgrades to and new infrastructure in significant natural areas</p> <p>Allow for upgrades to existing infrastructure and for new infrastructure within significant natural areas where it can be demonstrated that:</p> <ol style="list-style-type: none"> 1. There is an operational need or functional need that means the infrastructure's location cannot <u>practicably</u> be avoided; and 2. Any adverse effects on indigenous biodiversity values within a significant natural area are <u>managed</u> applied in accordance with ECO-P5<u>2-or</u> ; 3. <u>If the significant natural area is located in the Coastal Environment:</u> <ol style="list-style-type: none"> a. <u>Avoid adverse effects on the matters in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and</u> b. <u>Avoid significant adverse effects of activities on the matters in Policy 11(b) of the New Zealand Coastal Policy Statement 2010; and</u> c. <u>Manage other adverse effects accordance with the effects management hierarchy at ECO-P5.</u> |
|-------------|--|

810. **HS11-ECO-Rec75:** That submission points relating to INF-ECO-P34 (Upgrades to and new infrastructure within a significant natural area) are accepted/rejected as set out at Appendix B.

12.7 INF-ECO-R41: Operation, maintenance, repair, and removal of existing infrastructure within a significant natural area

Matters raised by submitters

811. Waka Kotahi [370.120] and KiwiRail [408.67] support INF-ECO-R41 and seek that this is retained as notified.
812. Forest and Bird [345.64, 345.65] oppose INF-ECO-R41 in part and seek that the Restricted Discretionary rule is amended. Additionally Forest and Bird [345.66, opposed by Chorus, Spark and Vodafone FS25.14, Powerco Limited FS61.14, KiwiRail FS72.35 and Meridian FS101.58] seeks a new Non-complying Activity component to INF-ECO-R41. The changes sought by the submitter are shown below:

INF-ECO-R41 - Operation, maintenance, repair, and removal of existing infrastructure within a significant natural area

2. Activity status: Restricted Discretionary

Where:

- a. Compliance with any of the requirements of INF-ECO-R41.1 cannot be achieved; and
- b. The significant natural area does not contain any matters identified in Policy 11 of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.

Matters of discretion are:

- 1. The matters in INF-ECO-P33 (or refer back to ECO P1); and
- 2. The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard.

3. Activity status: Non Complying

Where:

- a. Compliance with the requirements of INF-ECO R41.1 cannot be achieved; and
- b. The significant natural area includes matters identified in Policy 11 of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.

Section 88 information requirements for applications:

Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:

- 1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and
- 2. Demonstrating that ECO P5 (or refer to the new policy 11 policy sought above) has first been met, and the effects management hierarchy at ECO-P1 has been applied to other adverse effects.

Assessment

- 813. Policy 11 of the NZCPS concerns the protection of indigenous biological diversity in the coastal environment. Clause 1.4 of the NPS-IB clarifies that both the NZCPS and NPS-IB apply to SNAs within the coastal environment, with the NZCPS to prevail if any conflict arises.
- 814. Policy 6 of the NZCPS must also be considered in the context of the Forest and Bird submission points. Policy 6 relates to activities in the coastal environment and, through sub-clause 1(a), requires recognition that the provision of infrastructure in the coastal environment are activities important to the social, economic and cultural well-being of people and communities.
- 815. When considering both policy 11 and policy 6 of the NZCPS, I do not consider a Non-Complying Activity status to be appropriate. INF-ECO-R41 is for the operation,

maintenance, repair and removal of existing infrastructure that is within a SNA. The rule requires that, should the permitted activity standards not be met, functional and operation needs of the infrastructure must be considered, as well as the effect of the activity on the SNA (which includes avoid if need be). These are matters of discretion, and if they cannot be met, consent can be declined. Should an SNA be in the coastal environment, both the applicant and Council's resource consent planner must apply that criterion within the framework set by policy 11 of the NZCPS.

816. In terms of the change sought to introduce ECO-P1 into the matters of discretion, this would introduce the effects management hierarchy to the operation, maintenance and repair of existing infrastructure in SNAs. As per the direction provided by Clause 3.15 of the NPS-IB, I do not consider this necessary. In any instance, any non-compliance with a standard requires an applicant and the Council's resource consent planner to evaluate the *effect of the activity and removal on the identified biodiversity values of the significant natural area and the measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts*.
817. As such, I recommend that Forest and Bird's submission points [345.64, 345.65 and 345.66 opposed by FS25.14, FS61.14, FS72.35 and FS101.58] be rejected.

Summary of recommendations

818. **HS11-ECO-Rec76:** That submission points relating to INF-ECO-R41 (Operation, maintenance, repair, and removal of existing infrastructure within a significant natural area) are accepted/rejected as set out at Appendix B.
819. **HS11-ECO-Rec77:** That INF-ECO-R41 (Operation, maintenance, repair, and removal of existing infrastructure within a significant natural area) is confirmed as notified.

12.8 INF-ECO-R42: Upgrades to existing infrastructure within a significant natural area

Matters raised by submitters

820. Waka Kotahi [370.121] and KiwiRail [408.68] support INF-ECO-R42 and seek that this is retained as notified.
821. Forest and Bird [345.67, opposed by Chorus, Spark and Vodafone FS25.15, Powerco Limited FS61.15, KiwiRail FS72.36 and Meridian FS101.59] seek that the Restricted Discretionary rule under INF-ECO-R42 is amended and a new Non-Complying Activity component is added. The changes sought by the submitter are shown below:

INF-ECO-R42 - Upgrades to existing infrastructure within a significant natural area

2. Activity status: Restricted Discretionary

Where:

1. Activity status: Restricted Discretionary

Matters of discretion are:

1. The matters in INF-ECO-P33 and ECO-P1; and

2. The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard.

Exemption: The significant natural area does not contain any matters identified in Policy 11 of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.

2. Activity status: Non Complying

Where:

1. The significant natural area includes matters identified in Policy 11 of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.

Section 88 information requirements for applications:

Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:

1. Identifying the indigenous biodiversity values and potential impacts from the proposal; and

2. Demonstrating that ECO P5 (or refer to the new policy 11 policy sought above) has first been met, and the effects management hierarchy at ECO-P1 has been applied to other adverse effects.

Assessment

822. As per my assessment of the Forest and Bird submission points on INF-ECO-R41, I do not consider that, in light of both policies 6 and 11 of the NZCPS, a Non-Complying Activity status is appropriate for infrastructure activities in a SNA in the coastal environment.
823. However, in light of the submission, I do consider that the INF-ECO policy framework for upgrading and new infrastructure is consistent with Policy 11 of the NZCPS. I consider that this is sufficiently different to operation and maintenance as provided for under INF-ECO-R41 given the scale of works which could be undertaken.
824. In addressing the matter raised by Forest and Bird [345.67, opposed by FS25.15, Pow FS61.15, FS72.36 and FS101.59], rather than specifying within the rule that direct recourse to NZCPS policy 11 is required, I have recommended that the wording recommended for renumbered ECO-P6 (Coastal SNAs) be included in INF-ECO-P34.
825. A consequential amendment is required to INF-ECO-R42, as it currently references INF-

ECO-P33 as a matter of discretion. INF-ECO-P33 concerns operation and maintenance of existing infrastructure. INF-ECO-P34 is the policy which should be referenced in INF-ECO-R42, as this is the policy which concerns upgrades to, and new infrastructure in a significant natural area.

826. The second matter of discretion in the rule is recommended to be deleted. This matter concerns *the extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard*, and is irrelevant to INF-ECO-R42, as it does not require the consideration of any standards.

Summary of recommendations

827. **HS11-ECO-Rec78:** That INF-ECO-R42 (Upgrades to existing infrastructure within a significant natural area) is amended as set out below and at Appendix A.

INF-ECO-R42 – Upgrades to existing infrastructure within a significant natural area

1. Activity status: **Restricted Discretionary**

Matters of discretion are:

1. The matters in INF-ECO-P34~~43~~; and
2. ~~The extent and effect of non-compliance with any relevant standard not met as specified in the associated assessment criteria for the infringed standard.~~

828. **HS11-ECO-Rec79:** That submission points relating to INF-ECO-R42 (Upgrades to existing infrastructure within a significant natural area) are accepted/rejected as set out at Appendix B.

12.9 INF-ECO-R43: New infrastructure within a significant natural area

Matters raised by submitters

829. Waka Kotahi [370.122] and KiwiRail [408.69] support INF-ECO-R42 and seek that this is retained as notified.
830. Forest and Bird [345.68, opposed by Chorus, Spark and Vodafone FS25.16, Powerco Limited FS61.16, KiwiRail FS72.37 and Meridian FS101.60] seek that the rule has a Non-complying Activity status rather than a Discretionary status to give effect to policy 11 of the NZCPS and section 6(c) of the RMA.

Assessment

831. As per the above, the amendments recommended to INF-ECO-P34 provide alignment

with NZCPS policy 11, and would require consideration for all new infrastructure in a SNA that is within the coastal environment. Given the direction in NZCPS policy 6, a Non-Complying activity status for infrastructure within an SNA that is in the coastal environment is not appropriate.

832. As such, I recommend that the Forest and Bird submission point is rejected [345.68, opposed by FS25.16, FS61.16, FS72.37 and FS101.60] and that there are no changes to INF-ECO-R43 are recommended.

Summary of recommendations

833. **HS11-ECO-Rec80:** That INF-ECO-R43 (New infrastructure within a significant natural area) is confirmed as notified.
834. **HS11-ECO-Rec81:** That submission points relating to INF-ECO-R43 (New infrastructure within a significant natural area) are accepted/rejected as set out at Appendix B.

12.10 INF-ECO-S19: Trimming or removal of indigenous vegetation or trees within a significant natural area

Matters raised by submitters

835. WELL [355.47] and Waka Kotahi [370.123] seek to retain INF-ECO-S19 as notified.
836. FENZ [273.42, 273.43] seek to amend the standard to add a new assessment criteria in order to ensure that fire risk mitigation is taken into account when assessing applications to trim or remove indigenous vegetation in areas subject to high-risk fire.
837. Forest and Bird [345.76, opposed by Transpower FS29.31 and Meridian FS101.61] seek to amend the standard as follows:

INF-ECO-S19 - Trimming or removal of indigenous vegetation or trees within a significant natural area

1. Trimming or removal of indigenous vegetation or trees within a significant natural area must be limited to 2m ~~within the footprint of existing infrastructure, access tracks or fences to accommodate an existing track.~~

...

Assessment criteria:

- ~~1. Operational or functional needs of infrastructure; and~~

~~2. The effect of the activity and removal on the identified biodiversity values of the significant natural area and the measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts.~~

1. The extent to which the trimming or removal of indigenous vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and

2. The effect of the vegetation removal on the identified biodiversity values.

838. GWRC [351.95, 351.96 supported by WCCERG FS112.6, opposed by Meridian FS101.62] seek to amend the wording of the standard to remove 'identified' before the term 'significant biodiversity values' when referring to adverse effects caused by activities or maintenance of biodiversity values. They further seek to amend the standard (where relevant) to change 'indigenous vegetation' to 'vegetation'.
839. KiwiRail [408.70] seek to increase the limit for the trimming and removal of indigenous vegetation or trees to 5m within the footprint of existing infrastructure.
840. Transpower [315.106, 315.107] opposes reference to INF-ECO-S19 and seeks to delete reference to this standard in any National Grid specific rules.

Assessment

841. I consider that operational and functional requirements are an appropriate assessment criteria. These are defined terms in the PDP and allow for interrogation into the reason why such works that exceed the permitted standards are necessary. The avoidance, minimisation or remediation of effects on indigenous biodiversity is appropriate in light of the functional or operational need for the infrastructure to be in that location. The alternative wording sought by Forest and Bird, and Greater Wellington, does not allow for the functional and operational requirements of the infrastructure. As such, it is recommended that the submission points be rejected.
842. Consistent with my recommendation in respect of ECO-P3 and ECO-P5 I recommend the word 'identified' be removed.
843. The matter raised by FENZ is not infrastructure-specific and as such should not be in the INF-ECO chapter. Fire risk within SNAs is considered under the ECO chapter.

Summary of recommendations

844. **HS11-ECO-Rec82:** That INF-ECO-S19 (Trimming or removal of indigenous vegetation or trees within a significant natural area) is amended as shown below and at Appendix A.

| INF-ECO-S19 | Trimming or removal of indigenous vegetation or trees within a significant natural area | |
|-------------|---|--|
| All Zones | <ol style="list-style-type: none"> 1. Trimming or removal of indigenous vegetation or trees within a significant natural area must be limited to 2m within the footprint of existing infrastructure, access tracks or fences. 2. Trimming or removal associated with the creation of a new access track required to undertake operation, maintenance or repair of infrastructure: <ol style="list-style-type: none"> a. Must not be greater than 2.5m in width; and b. Must not involve the removal of a tree with a trunk greater than 15cm in diameter as measured 1.4m above ground. <p>This standard does not apply to:</p> <ol style="list-style-type: none"> a. Indigenous vegetation located within the formed width of an existing road; or b. Works undertaken in accordance with Electricity (Hazards from Trees) Regulations 2003 or the Telecommunications Act 2001. | <p>Assessment criteria:</p> <ol style="list-style-type: none"> 1. Operational or functional needs of infrastructure; and 2. The effect of the activity and removal on the identified biodiversity values of the significant natural area and the measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts. |

845. **HS11-ECO-Rec83:** That submission points relating to INF-ECO-S19 (Trimming or removal of indigenous vegetation or trees within a significant natural area) are accepted/rejected as set out at Appendix B.

12.11 INF-ECO-S20: Earthworks within a significant natural area

Matters raised by submitters

846. Waka Kotahi [370.124] and KiwiRail [408.71] seek to retain INF-ECO-S20 as notified.
847. Telco [99.51, supported by WELL FS27.2] and Powerco [127.33, supported by WELL FS27.3] seek to amend the standard to at least provide a nominal allowance for other

infrastructure that may require some localised earthworks in significant natural areas for maintenance and upgrading.

848. Forest and Bird [345.77, opposed by Transpower FS29.32, KiwiRail FS72.38 and Meridian FS101.63] seek to amend the standard as follows:

INF-ECO-S20: Earthworks within a significant natural area

1. Earthworks within a significant natural area must be limited to maintenance of existing tracks.
~~not exceed:~~

~~More than 50m³ per transmission line support structure; or~~

~~100m³ per access track.~~

Assessment criteria:

- ~~1. Operational or functional needs of infrastructure; and~~
- ~~2. The effect of the activity and removal on the identified biodiversity values of the significant natural area and the measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts.~~
1. The extent to which the earthworks limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and
2. The effect of the earthworks on the identified biodiversity values.

849. GWRC [351.97, supported by WCCERG FS112.7, opposed by Meridian FS101.64] seek to amend the wording of the standard to remove 'identified' before the term 'significant biodiversity values' when referring to adverse effects caused by activities or maintenance of biodiversity values.

850. WELL [355.48, 355.49] seek to amend the standard so sub-clause so that 'transmission' be replaced with 'electricity'.

851. Transpower [315.108, 315.109] opposes reference to INF-ECO-S20 and seeks to delete reference to this standard in any National Grid specific rules.

Assessment

852. In terms of the applicability of the standard (noting with the submissions sought by Transpower that references to the National Grid be removed), the works only allow for earthworks associated with access tracks. The standard limits this to an area of 100m³. The amendment sought by Forest and Bird increases this volume, depending on extent of access track. In my view, a volume limit is appropriate as it is readily measured.

853. WELL [355.48, 355.49] have requested that 50m³ of earthworks be permitted for electricity line support structures, and the Telco's seek a nominal allowance for other infrastructure that may require some localised earthworks.
854. The operation of infrastructure within SNAs can be comprised of a number of potential components, including any structures necessary for the provision of the infrastructure, as well as ancillary matters including an access track to that infrastructure and any fences. There are likely to be needs for earthworks for any of these matters for operational reasons. As such, I do not consider it appropriate that the standard is limited solely to existing access tracks, but should include all necessary components.
855. In considering this, I consider that the 100m³ limit should be for all activities, not limited to the access track. This provides a nominal amount, including an allowance for any residual earthworks outside of maintaining an access track, and provides an overall total quantum for infrastructure providers.
856. In terms of Forest and Bird and Greater Wellington's submission points on the assessment criteria, the conclusions reached above for INF-ECO-S19 are equally applicable for INF-ECO-S20.
857. The relief sought by Transpower [315.110 – 314.111], has been given effect to through the recommendation at Hearing Stream 9 to include a standalone INF-NG chapter in the PDP.

Summary of recommendations

858. **HS11-ECO-Rec84:** That INF-ECO-S20 (Earthworks within a significant natural area) is amended as set out below and at Appendix A:
859. **HS11-ECO-Rec85:** That submission points relating to INF-ECO-S20 (Earthworks within a significant natural area) are accepted/rejected as set out at Appendix B.

| INF-ECO-S20 | Earthworks within a significant natural area | |
|-------------|--|--|
| All Zones | <p>1. Earthworks within a significant natural area must not exceed <u>100m³</u>:</p> <p>2. More than 50m³ per transmission line support structure; or</p> <p>3. 100m³ per access track.</p> | <p>Assessment criteria:</p> <p>3. Operational or functional needs of infrastructure; and</p> <p>4. The effect of the activity and removal on the identified biodiversity values of the significant natural area and the</p> |

| | | |
|--|--|--|
| | | measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts. |
|--|--|--|

Section 32AA evaluation

860. In my opinion, the recommended amendments to the INF-ECO chapter are more appropriate in achieving the objectives of the PDP than the notified provisions. In particular, I consider that the recommendations:
- a. provide greater clarity as to how the provisions in the chapter are implemented. Consequently, they are more efficient and effective than the notified provisions in achieving the objectives of the PDP.
 - b. provide for improved integration with provisions considered in other hearing streams. Consequently, it is more efficient and effective than the notified provisions in achieving the objectives of the PDP.
 - c. provide for improved integration and consistency with higher order planning documents. Consequently, it is more efficient and effective than the notified provisions in achieving the objectives of the PDP.
861. The recommended amendments will not have any greater environmental, economic, social, and cultural costs or benefits than those associated with the policy framework of the notified provisions. However, there will be benefits from improved plan interpretation and more efficient District Plan administration.

12.12 Other matters

Identified issue with the rule titles for INF-NG-R65 and INF-NG-R67

862. In reviewing the suite of provisions relevant to this topic I have identified that rules INF-NG-R65 and INF-NG-R67 need to be updated to reference SNAs in their titles. These rules were heard through hearing stream 9. These rules require resource consent for upgrading and new National Grid as restricted discretionary and Discretionary activities, and the relevant policies (INF-NG-P61 and INF-NG-P62) require consideration of effects on SNAs. As such I encourage the panel to make this amendment as a minor amendment to Mr Anderson's Right of Reply version of the chapter.

331 Southernthread road

- 863. In the period between notification of the PDP and the commencement of hearings the Council received a request for a site visit to be undertaken on a rural property at 331 Southernthread road, Brooklyn.
- 864. The property owner had not made a submission on the PDP.
- 865. In June 2023 a site visit was undertaken with Wildlands with the property owner. The result of the site visit was a recommendation that an area identified as SNA on the planning maps did not meet the criteria and should be removed.
- 866. There are issues with submission scope to make this change in the hearing process given no submission. I would be supportive of the mapping amendments given the ecological recommendations made and in the interests of efficiency for the landowner having to seek resource consent in an any which has been verified as not meeting the criteria to be an SNA.

13.0 Alignment with previously determined provisions

- 867. While this s42A report has focused on the notified ECO chapter, INF-ECO chapter and related schedules and appendices, there are also other chapters which will need further amendments to reconcile the NPS-IB.
- 868. Two chapters already determined – *Subdivision* and *Earthworks* contain policy and rule frameworks which in my view could do with further alignment.
- 869. The following provisions warrant further consideration either consequentially on the recommendations included in this report following my methodology to implement the NPS-IB, or through a future plan change.

Earthworks

EW-P9 Minor earthworks within significant natural areas

EW-P10 Earthworks within significant natural areas

EW-R8 Earthworks within a significant natural area (appealed)

Subdivision

SUB-P17 Subdivision in significant natural areas

SUB-R11 Subdivision of land within a significant natural areas

870. I make this suggestion because the avoidance framework and effects management frameworks (Clause 3.10 – 3.11) of the NPS-IB apply to all forms of *subdivision*, use and *development* (including earthworks). The same is true for clause 3.16 ‘outside SNA’ indigenous biodiversity.
871. I have only made recommendations in the ECO chapter in respect of uses and development not otherwise addressed in other chapters of the plan and have not considered the subdivision aspect of these clauses.
872. The provision that I am most immediately concerned about is EW-P10 (Earthworks within significant natural areas) which references particular policies in the ECO chapter which I have recommended be changed in their intent, renumbered or deleted.
873. For example, for the EW-P10 policy to still make sense, the following changes to policy numbering should be made:
- Only allow for earthworks of a more than minor scale within Significant Natural Areas only where it can be demonstrated that any adverse effects on indigenous biodiversity values are addressed in accordance with ~~ECO-P1~~~~ECO-P3~~ and the matters in ~~ECO-P3~~ ~~ECO-P4~~ and ECO-P5.*
874. I have also raised this internal referencing issue with Mr Jeffries, the reporting officer for the Renewable Electricity Generation Chapter where the same issue arises. That particular matter can be addressed in the wrap up hearing as that chapter has not been determined.
875. I will take the Panel’s direction on any further drafting I can provide to address this matter.

14.0 Conclusion

876. Submissions have been received in support of, and in opposition to the PDP chapters, appendices and schedules relating to Ecosystems and Indigenous Biodiversity.
877. Having considered the new statutory context we find ourselves in and all the submissions, I recommend that the PDP should be amended as set out in the amended chapters, appendices and schedules provided at Appendix A of this report.
878. For the reasons set out in the Section 32AA evaluations included throughout this report, Within the scope of submissions and methodology I have set out to address the implementation of the NPS-IB, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
- a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is

necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and

- b. Achieve the relevant objectives of the PDP, in respect to the proposed provisions.

15.0 Recommendations

879. I recommend that:

- a. The PDP is amended in accordance with the changes recommended in Appendix A of this report; and
- b. The IHP accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report.

16.0 List of Appendices

Appendix A

Recommended Amendments to Provisions

- Ecosystems and Indigenous Biodiversity
- Appendix 2 – Biodiversity offsetting
- Appendix 3 – Biodiversity Compensation
- Appendix 15 – Ecological Assessments
- Schedule 8 – Significant Natural Areas
- Schedule 9 – Indigenous Tree sizes
- Infrastructure - Ecosystems and Indigenous Biodiversity Chapter
- Definitions amended or added in this s42A report

Appendix B

Recommended Responses to Submissions

Appendix C

Report prepared by Wildlands Consultants titled '*Comparison between Wellington Regional Policy Statement Criteria and NPS-IB for Assessment of Significant Natural Areas*', project no. 3942j-ii (dated October 2023).

Appendix D

Report prepared by Wildlands Consultants titled '*Audit of Potential Significant Natural Areas of Wellington City: Stage 1 Desktop Analysis*' Desktop Review of Wellington City Council Significant Natural Areas according to NPS-IB 2023 Criteria.

Appendix E

Report prepared by Property Economics titled '*Capacity Impact of Significant Natural Areas*', project no. 52358 (dated March 2024).

Appendix F

Report prepared by GHD titled '*Significant Natural Areas | Section 32 Economic Assessment Indigenous Biodiversity*', project no. 12628338 (dated 24 April 2024).

Appendix G

Report prepared by Wildlands Consultants titled '*The Current and Historic State of Indigenous Biodiversity in Wellington*', project no. 3942L (dated 14 May 2024).

Appendix H

Report prepared by Wildlands Consultants titled '*Vegetation clearance rules for Wellington City*', project no. 3942L-ii (dated 11 July 2024).

Appendix I

Example of consultation materials (dated 30 August 2019).

Appendix J

Ecological assessment for 331 Southernthread road (June 2023)