

SECTION 32 REPORT

Earthworks

May 2022

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1 Executive Summary

The analysis provided in this report is intended to assist Far North District Council (**Council**) to fulfil its obligations under Section 32 of the Act. This Section 32 evaluation report relates to activities within the Earthworks chapter.

The Operative Far North District Plan 2009 (**ODP**) sits within a layered policy framework, which incorporates the Resource Management Act 1991 (**RMA**), National Policy Statements, National Environmental Standards (**NES**), Iwi and hapu Management Plans, Regional Policy Statements (**RPS**), Regional Plans, Structure Plans and Long-Term Plans. Each of these policy documents and plans have been considered in accordance with the RMA.

Earthworks are an integral and necessary component of the subdivision, use and development of rural and urban land for housing, business and recreation purposes. In addition, Earthworks are a key component of the development, operation, maintenance and upgrading of infrastructure.

There are a number of resource management issues across urban and rural contexts that are relevant to Earthworks, including Historical and Cultural Landscapes, Natural Hazards, Sites of Significance to Māori, Infrastructure, Coastal Areas, Biodiversity and Natural Features.

Earthworks have the potential to detrimentally alter and affect landforms, landscapes, Natural Features, Historic and Cultural Heritage and the Natural Character of the Coastal Environment. Earthworks associated with construction, subdivision, land use and development can result in adverse effects including increased land stability and accelerated erosion, leading to increased risks from natural hazards and sediment entering stormwater.

Earthworks will be managed within the District Plan by the:

- Introduction of a single Earthworks chapter with objectives that set out the intent for enabling and managing the effects of Earthworks activities and new and amended rules and standards that:
 - Set volume and area thresholds across a time scale that are appropriate with the function, amenity and predominant character of each zone and overlay.
 - Provide for a range of activities across various zones and overlays.
 - Permits earthworks that comply with the guidelines and recommendations of the Erosion and Sediment Control Guidelines for Land Disturbing in the Auckland Region 2016 (GD05).
 - Negate the need to have a bylaw managing Earthworks.

2 Introduction and Purpose

2.1 Purpose of report

This report provides an evaluation undertaken by the Far North District Council (**Council**) in preparation of district plan provisions for the Earthworks chapter in the Proposed Far North District Plan (**PDP**). This assessment is required under section 32 of the RMA.

Section 32 of the RMA requires Councils to examine whether the proposed objectives are the most appropriate to achieve the purpose of the RMA and whether the provisions (i.e., policies, rules and standards) are the most appropriate way to achieve the objectives. This assessment must identify and assess environmental, economic, social, and cultural effects, benefits and costs anticipated from the implementation of the provisions. Section 32 evaluations represent an on-going process in RMA plan development and a further evaluation under section 32AA of the RMA is expected throughout the review process in response to submissions received following notification of the PDP.

2.2 Overview of topic

Earthworks can be managed by the District Plan, directly by the RMA or through other legislation, such as the Far North District Council Control of Earthworks Bylaw (attached to the report as **Appendix 1**). This report sets out the issues for earthworks, provides an overview of the statutory and policy context, and any specific consultation. The report also includes a review of the **ODP** and evaluation of alternatives to determine the most appropriate way(s) to achieve the purpose of the RMA in relation to earthworks.

Earthworks for the purpose of the PDP is defined by the National Planning Standards 2019 (**Planning Standards**)¹ as:

means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land² for the installation of fence posts.

The adverse effects of Earthworks are often influenced by the character, scale, duration and timing of Earthworks activities and the type of development. Earthworks are generally associated with construction, subdivision, land use and development, which can result in adverse effects which have the potential:

- To detrimentally alter and affect landforms, landscapes, natural features, historic and cultural heritage and the natural character of the coastal environment;
- For increased land instability and accelerated erosion, leading to increased risks from natural hazards and sediment entering stormwater.
- To impact the amenity and character in both rural and urban areas, with potential for significant and long-term adverse effects.

The ODP provisions simply set a maximum volume over a 12-month period within a zone and do not specify the activities that can operate within a zone. This has created some tension over the management of Earthworks activities, particularly the dual-management approach of the ODP and Bylaw. The Planning Standards have introduced a prescribed structure of district plan documents to improve consistency across the country. The new structure requires Earthworks to be considered and presented in its own chapter with associated Section 32 evaluation report. The changes to the Earthworks chapter as part of the consolidated review of the ODP will address the requirements of

¹ PDP is required to apply National Planning Standard definitions in accordance with section 58I.

² Land disturbance as defined by National Planning Standard:

means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) that does not permanently alter the profile, contour or height of the land.

the Planning Standards as well as move from a simple effects-based rule set to an activities-based approach. The activity-based approach to the PDP will give more certainty on the types of activities that will be enabled within the different zones and overlays and the Earthworks rules can and align with the hybrid approach proposed in the consolidated review of the ODP.

3 Statutory and Policy Context

3.1 Resource Management Act 1991

The **Section 32 Overview Report** provides a summary of the relevant statutory requirements in the RMA relevant to the PDP. This section provides a summary of the matters in Part 2 of the RMA (purpose and principles) of direct relevance to this topic.

Section 74(1) of the RMA states that district plans must be prepared in accordance with the provisions of Part 2. The purpose of the RMA is the sustainable management of natural and physical resources which is defined in section 5(2) of the RMA as:

“...sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety while –

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

To achieve the purpose of the RMA, all those exercising functions and powers under the RMA are required to:

- Recognise and provide for the matters of national importance identified in section 6
- Have particular regard to a range of other matters in section 7
- Take into account the principles of the Treaty of Waitangi in section 8 of the RMA.

The following Section 6 matters are directly relevant to the Earthworks chapter:

- a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development.
- b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.
- e) The relationship of māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- f) The protection of historic heritage from inappropriate subdivision, use and development.
- h) The management of significant risks from natural hazards.

The management of Earthworks provisions are addressed across a wide range District Plan chapters, including the coastal environment, natural hazards, outstanding natural features and landscapes overlays, thus some of the Section 6 matters are directly relevant in this case.

The following Section 7 matters are directly relevant to the Earthworks Chapter:

- (a) Kaitiakitanga:
- (aa) The ethic of stewardship:
- (b) The efficient use and development of natural and physical resources:
- (c) The maintenance and enhancement of amenity values:
- (g) Any finite characteristics of natural and physical resources:

- (i) The effects of climate change.

Section 8 of the RMA requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) be taken into account. The principles of partnership, participation and protection have been taken into account through engagement with iwi authorities and hapū and are reflected in the proposed provisions for earthworks.

3.2 Higher order planning instruments

Section 75(3) of the RMA requires district plans to give effect to higher order planning instruments – National Policy Statement (NPS), the New Zealand Coastal Policy Statement (NZCPS), National Planning Standards (Planning Standards), and the relevant Regional Policy Statement (RPS). The **Section 32 Overview Report** provides a more detailed summary of the relevant RMA higher order planning instruments relevant to the PDP. The sections below provide an overview of provisions in higher order planning instruments directly relevant to the Earthworks Chapter:

3.2.1 National Planning Standards

Section 75(3)(ba) of the RMA requires that district plans give effect to the Planning Standards. The Planning Standards were gazetted in April 2019 and the purpose is to assist in achieving the purpose of the RMA and improve consistency in the structure, format and content of RMA plans. The following standards and directions in the Planning Standards are of direct relevance to the Earthworks chapter:

District-wide Matters Standard:

- (29) All provisions for managing earthworks must be located within the Earthworks chapter
- (30) The Earthworks chapter must include cross-references to any relevant earthworks provisions under the Energy, infrastructure and transport heading
- (31) The Earthworks chapter must include cross-referencing to any provisions for mining, quarries and/or gravel extraction in a special purpose zone or zone chapter or section.

3.2.2 National Policy Statements

Section 75(3)(a) of the RMA requires that district plans give effect to any NPS. The following NPS's are directly relevant to the Earthworks chapter:

- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement on Electricity Transmission 2008

The sections below provide a summary of the key provisions in NZCPS that are to be given effect to in the Earthworks Chapter:

| | |
|-----------------|---------------------------------------|
| NZCPS | |
| Policy 6 | Activities in the coastal environment |

The NZCPS emphasises 'appropriate' use of the coastal environment. Objectives and policies focus on, for example, the protection of natural character and the management of the coastal environment from inappropriate use and development while enabling people and communities to provide for their social, economic and cultural well-being.

Coastal Environment, Natural Character, and Outstanding Natural Landscapes and Features are addressed in separate section 32 evaluation reports. It is acknowledged that inappropriate earthworks within the Coastal Environment, can result in adverse effects on the Natural Character of the Coastal Environment and identified Outstanding Natural Features and Landscapes. Furthermore, if not properly managed earthworks can have detrimental effects on coastal water quality through sedimentation.

The proposed Earthwork provisions are designed in conjunction with the overlay provisions to give effect to the relevant provisions of the NZCPS. The proposed objectives and policies seek to strike an appropriate balance between providing for levels of Earthworks to be undertaken, while preserving the natural character of the coastal environment and maintaining coastal water quality.

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| National Policy Statement for Renewable Electricity Generation (NPS-REG) |
|---|

| |
|--|
| National Policy Statement for Electricity Transmission (NPS-ET) |
|--|

Both the NPS for Renewable Electricity Generation and the NPS for Electricity Transmission include objectives to facilitate the update and maintenance of the transmission network and/or renewable electricity, including all works that are needed for upgrade or maintenance purposes, while managing the adverse environmental effects. Neither of these NPS's explicitly provide for Earthworks, however it is considered that the objectives of this national direction can and does relate to facilitating and enabling any potential Earthworks that may be needed as part of upgrade and/or maintenance activities for transmission lines or renewable electricity. The proposed Earthworks chapter provisions have been drafted to ensure that they will not conflict with either the NPS for Renewable Electricity Generation or the NPS for Electricity Transmission.

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|---|
| National Policy Statement for Freshwater Management (NPS-FM) |
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The fundamental concept of the National Policy Statement for Freshwater Management (**NPS-FM**) is "Te Mana o te Wai" the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community. The only objective of the NPS-FM is:

2.1 Objective

(1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems*
- (b) second, the health needs of people (such as drinking water)*
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

Policies of the NPS-FM focuses upon the management of freshwater in an integrated way to ensure that the health and well-being of water bodies and freshwater ecosystems is maintained and improved.

While the NPS-FM does not have policy specifically referencing Earthworks, the provisions have been established to give effect to the NPS-FM.

| |
|--|
| National Policy Statement on Urban Development (NPS-UD) |
|--|

The National Policy Statement on Urban Development requires councils to plan well for growth and ensure a well-functioning urban environment for all people, communities and future generations. Council does not qualify as a tier 1, 2 or 3 Council, therefore the NPS-UP does not apply, however the creation of well-functioning urban environments has still been applied where possible.

The NPS-UD 2020 recognises the national significance of:

- Having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
- Providing sufficient development capacity to meet the different needs of people and communities.

The NPS-UD does not have policy specifically referencing Earthworks; however it is acknowledged that Earthworks are essential to provide for urban development.

3.2.3 National Environmental Standards

Section 44 of the RMA requires local authorities to recognise NES by ensuring plan rules do not conflict with or duplicate provisions in a NES. The following NES are directly relevant to the earthworks:

- National Environmental Standard for Telecommunication Facilities (**NES-TF**)
- National Environmental Standard for Plantation Forestry (**NES-PF**)
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NES-CS**)
- National Environmental Standard for Electricity Transmission Activities (**NES-ETA**)

The NES-TF provides nationally consistent regulations for the deployment of telecommunications infrastructure across New Zealand. Subpart 6 of the NES-TF provides specific provisions for Earthworks associated with certain antenna. In addition, Subpart 6 sets out the requirement that regional council Earthworks rules must be applied for any activity regulated within the NES-TF. The proposed Earthworks provisions have been designed so as not to conflict with the NES-TF and remain consistent with the Proposed Northland Regional Plan. No specific controls for earthworks in regard to telecommunications infrastructure have been proposed, and instead reliance is placed on the NES-TF provisions and the regional Earthworks rules and the application of these by Northland Regional Council (**NRC**) as required under the NES-TF.

The NES-PF provides nationally consistent regulations to manage the environmental effects of plantation forestry³. Subpart 3 of the NES-PF provides specific provisions that apply to Earthworks for plantation forestry purposes. The regulations under the NES-PF however do not apply to:

- Vegetation clearance that is carried out before afforestation; and
- Any activities or general provisions and conditions not specified.

If these regulations do not apply to a particular activity, there may be rules in the regional or district plans that apply to that activity. However, in an overall sense, Earthworks for forestry are permitted from a territorial authority perspective, however, resource consent may be needed from a regional authority unless certain permitted activity criteria are met. This includes a forestry Earthworks

³ Planation Forestry defined by the NES-PF:

means a forest deliberately established for commercial purposes, being—

- at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and*
- includes all associated forestry infrastructure; but*
- does not include—*
 - a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or*
 - forest species in urban areas; or*
 - nurseries and seed orchards; or*
 - trees grown for fruit or nuts; or*
 - long-term ecological restoration planting of forest species; or*
 - willows and poplars space planted for soil conservation purposes*

management plan being required for all Earthworks that involve more than 500m² of soil disturbance in any 3-month period under the NES-PF.

Regulation 6 of the NES-PF provides the ability for a district plan rule to be more stringent than the NES-PF if the rule gives effect to, an objective developed to give effect to the NPS-FM, any of policies 11, 13, 15 and 22 of the NZCPS and if a rule recognises and provides for the protection of outstanding natural features and landscapes or significant natural areas.

The proposed provisions have been designed to not conflict with the NES-PF and apply more stringent provisions within Overlay Areas as appropriate. No specific controls for Earthworks in forestry areas have been proposed, and instead reliance is placed on the NES-PF provisions and the application of these by NRC.

The NES-CS applies to assessing and managing the actual or potential adverse effects of contaminants in soil on human health from five activities- subdivision, a change in land-use, soil disturbance, soil sampling and the removal or replacement of fuel storage. There are controls in the NES- CS on the amount of Earthworks that can be undertaken where the site has, or is likely to have had an activity listed on the Hazardous Activities and Industries List (HAIL) undertaken on it. It is intended that reliance can be placed on the NES-CS to manage any actual or potential adverse effects arising from Earthworks on contaminated sites or potentially contaminated sites. It is noted that no provisions with the conflict NES- CS have been included within the proposed provisions.

There are no provisions in the NES for Air Quality or the NES for Sources of Drinking Water which specifically relate to Earthworks management.

3.2.4 Regional Policy Statement for Northland

Section 75(3)(c) of the RMA requires district plans to 'give effect' to any Regional Policy Statement. The Northland Regional Policy Statement was made operative on 14 June 2018. The table below outlines the provisions in the RPS that are directly relevant to the Earthworks chapter.

| RPS | |
|-----------------------|---|
| Objective 3.2 | Region-wide water quality |
| Objective 3.4 | Indigenous ecosystems and biodiversity |
| Objective 3.5 | Enabling economic well-being |
| Objective 3.13 | Natural hazard risk |
| Objective 3.14 | Natural character, outstanding natural features, outstanding natural landscapes and historic heritage |
| Objective 3.15 | Active management |
| Policy 4.2.1 | Improving overall water quality |
| Policy 4.4.1 | Maintaining and protecting significant ecological areas and habitats |
| Policy 4.6.1 | Managing effects on the characteristics and qualities of natural character, natural features and landscapes |
| Policy 4.6.2 | Maintaining the integrity of heritage resources |
| Policy 4.7.1 | Promote active management |
| Policy 7.1.1 | General risk management approach |
| Policy 7.1.2 | New subdivision and land use within 10-year and 100-year flood hazard areas |

In summary, these RPS objectives and policies have been interpreted to support the imposition of rules in the PDP managing the location and scale of earthworks. The RPS requires a higher level of protection of the coastal environment, natural character, outstanding natural features and landscapes and historic heritage resulting in the need to have stricter earthwork controls within these mapped overlays. The proposed earthwork provisions are designed in conjunction with the overlay provisions to give effect to the RPS. The Earthworks chapter has been developed to strike an appropriate balance between enabling Earthworks required to support the efficient development of land and resources, while ensuring the adverse effects are managed in accordance with the direction specified within the RPS.

3.3 Regional Plan for Northland

Section 75(4)(b) of the RMA states that any district must not be inconsistent with a regional plan for any matter stated in section 30(1) of the RMA.

Regional councils are required to include provisions in regional plans to manage the effect of earthwork activities with respect to their functions under Section 30 of the RMA, while territorial authorities are required to manage the effect of earthwork activities with respect to their functions under Section 31 of the RMA. This can result in an overlap of responsibilities between regional and territorial authorities. The provisions of the PDP have been established to avoid duplication while giving effect to Section 31 of the RMA.

The operative Northland Regional Plans and proposed Northland Regional Plan are summarised in the **Section 32 Overview Report**. The table(s) below provides an overview of the regional plan provisions directly relevant to Earthworks:

| Regional Air Quality Plan for Northland (RAQP) | |
|---|------|
| Chapter 6.3.1 | Dust |

The RAQP notes that air discharges have the potential to result in adverse health, amenity and nuisance effects on people and communities if not carefully managed. As such, the proposed provisions include objectives, policies, and rules that seek to manage the effects of dust arising from Earthworks, and associated land disturbance activities.

| Regional Water and Soil Plan (RWSP) | |
|--|---|
| Objective 6.3 | Management of natural and physical resources within the Northland Region in a manner recognising cultural and traditional relationships of tangata whenua with land and water. |
| Objective 12.5(4) | Avoid, remedy or mitigate adverse effects of activities to protect areas of significant indigenous vegetation and fauna, natural character of water bodies and provide for waahi tapu and other sites of significance to tangata whenua |

The RWSP seeks to manage the effects of Earthworks on the surrounding environment, which is achieved through the use of generic environmental standards for land disturbance activities, including those related to sedimentation and runoff, interference and destruction of waahi tapu sites and other culturally significant sites, as well as erosion features.

The RWSP has significantly higher Earthworks thresholds compared to those in the PDP. Overall, the proposed Earthworks chapter has been drafted to recognise that Earthworks are managed to a greater degree by the regional council, and to avoid duplication and overlaps between territorial and regional plans.

| Proposed Regional Plan | |
|-------------------------|---|
| Objective F.1.2 | Water Quality – managing the use of land and discharge of contaminants to land and water. |
| Objective F1.5 | Enabling economic well-being – managing Northlands natural and physical resources to improve the economic well-being for Northland and its communities. |
| Objective F.1.8 | Use and development within the coastal marine area |
| Objective F.1.9 | Tangata whenua role in decision-making |
| Objective F.1.10 | Natural hazard risk |

The Proposed Regional Plan combines the operative Regional Plans (coastal, air quality, water and soil) into one plan. Similar to the operative RWSP, the Proposed Regional Plan proposes specific policies and rules to manage the effects of Earthworks within the region. There are two key notable difference between the RWSP and Proposed Regional Plan, with the first being the Proposed Regional Plan requirement to implement erosion and sediment control measures in accordance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region (2016). The second relates to the manner in which Earthworks are measured and assessed.

While the RWSP managed Earthworks activities through a combination of surface area (m²) and volumetric (m³) thresholds, the Proposed Regional Plan moves away from volumetric control and instead, largely relies on the surface area controls. A summary of the proposed changes is provided within Table 1 below.

| Table 1: Summary of Permitted Activity Earthworks Thresholds: Operative vs Proposed Regional Plan | | | |
|--|---|--|---|
| | Operative RWSP | Proposed RP | Comment |
| Earthworks | Erosion prone land: 1,000m ³ and 1,000m ² in any 12-month period. | Erosion prone land: 2,500m ² at any time. | Controls moving towards a primarily surface area threshold base as opposed to volumetric, except where works are to be undertaken within 10m of any water body (see footnotes). |
| | Within Riparian Management Zone: 50m ³ and 200m ² . | Within CRFM Area ⁴ : 200m ² at any time. ⁵ | |
| | Other land: Maximum volume of 5,000m ³ in any 12-month period. | Other land: 5,000m ² at any time. | |

⁴ Coastal Riparian and Foredune Management Area, defined within the PRP as; 1) any land within a horizontal distance of 10 metres landward from the coastal marine area, or 2) the land between the coastal marine area and the bottom of the landward side of the foredune, where the land adjacent to the coastal marine area is vegetated or unvegetated sand dunes.

⁵ Additional volume threshold of 50m³ imposed on any works undertaken within 10m of a natural wetland, or the bed of a river or lake.

| | | | |
|--------------------------------------|-----------------------|--|---|
| Earthworks within flood hazard areas | No specific controls. | Flood hazard area: 100m ³ in any 12-month period. | Specific controls introduced for Earthworks activities undertaken within flood hazard areas. Proposed Regional Plan thresholds are measured over a 12-month period as opposed to “at any time”. |
|--------------------------------------|-----------------------|--|---|

Although the Proposed Regional Plan manages earthworks from a Regional Council perspective, the requirements of this document have been taken into consideration in the drafting of the proposed Earthworks chapter to avoid inconsistencies and overlap between the district and regional plans. Further, the proposed Earthworks chapter has been drafted to incorporate standards that require compliance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (GD05'), to ensure some consistency and alignment with the Proposed Regional Plan. It is noted that the Draft Engineering Standards shared with the community in early 2021 included reference to GD05, however the proposed provisions (in particular EW-S5) may need to be updated if the GD05 compliance standard is not adopted.

3.4 Iwi and Hapū Environmental Management Plans

When preparing and changing district plans, Section 74(2A) of the RMA requires Council to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. At present there are ten iwi planning documents accepted by Council which are set out and summarised in the Section 32 Overview Report. The key issues in these plans that have been actively taken into account in the preparation of the provision for Earthworks are as follows:

- Concerns over protection of waahi tapu, archaeological sites, minerals, soil, air quality, water quality and indigenous flora and fauna, particularly with regards to subdivision and development activities.
- Other key issues identified relate to uncontrolled Earthworks within the vicinity of culturally significant ridgelines and landscapes, where the alteration of landforms can intrude into viewshafts and damage the cultural and spiritual values of these areas. In addition, the lack of erosion and sedimentation controls, and the subsequent degradation of soil systems and water bodies were commonly identified as key issues for iwi. As such, undertaking Earthworks within close proximity to waterbodies and large-scale works associated with provision of infrastructure, rural land uses, such as farming, horticulture, and forestry are identified as activities of specific interest to iwi.
- Implementing stringent Earthworks performance standards within Council’s statutory planning documents is considered a key method to manage the effects of earthworks, in particular the provision of erosion and sediment control measures and greater consideration to the location and design of Earthworks on cultural values and sites. Additional methods of managing the effects of these works include the involvement of tangata whenua in the preparation of cultural impact assessments, and in the monitoring of consent conditions where Earthworks are to be undertaken within culturally and archaeological sensitive areas. Most iwi and hapū management plans recognised the importance of the ‘Accidental Discovery Protocol’ the PDP includes a provision to implement this protocol as appropriate.

3.5 Other Legislation and Policy Documents

When preparing or changing a district plan, section 74(2)(b)(i) of the RMA requires Council to have regard to management plans and strategies prepared under other Acts to the extent that it has a bearing on resource management issues of the district. The **Section 32 Overview Report** provides a

more detailed overview of strategies and plans prepared under legislation that are relevant to PDP. This section provides an overview of other strategies and plans directly relevant to Earthworks:

3.5.1 30 Year Infrastructure Strategy

Earthworks are not explicitly mentioned within the Far North District 2018-2048 Infrastructure Strategy, however indirect references are made to carefully manage and protect land from potential erosion that can potentially affect the District's infrastructure.

3.5.2 Far North District Council Control of Earthworks Bylaw

Pursuant to the powers of the Local Government Act 2002, the Far North District Council's Control of Earthworks Bylaw (**the Bylaw**) came into force 14 December 2009 and was updated in 2019. The purpose of the Bylaw is to control Earthworks where a resource consent is not required under the ODP.

The Bylaw has notably smaller thresholds than the ODP, and requires erosion and sediment controls in accordance with Auckland Council's Technical Publication 90 (TP90) document. Where no resource consent is required, the Bylaw requires an application be made for an Earthworks Permit for works:

- Within 3m of any boundary or water body in all zones, except Minerals Zone;
- Beyond 3m of any boundary or water body in all zones, except Minerals and Rural Production Zones that exceed the permitted thresholds; being 0.5m cut depth, 50m² or 50m³;
- Beyond 3m of any boundary or water body in the Rural Production zone that exceeds 1.5m cut depth;
- Within any District Plan resource area; and
- That impact overland flow paths.

The relationship between the Bylaw and the RMA statutory documents is illustrated in **Figure 1** below.

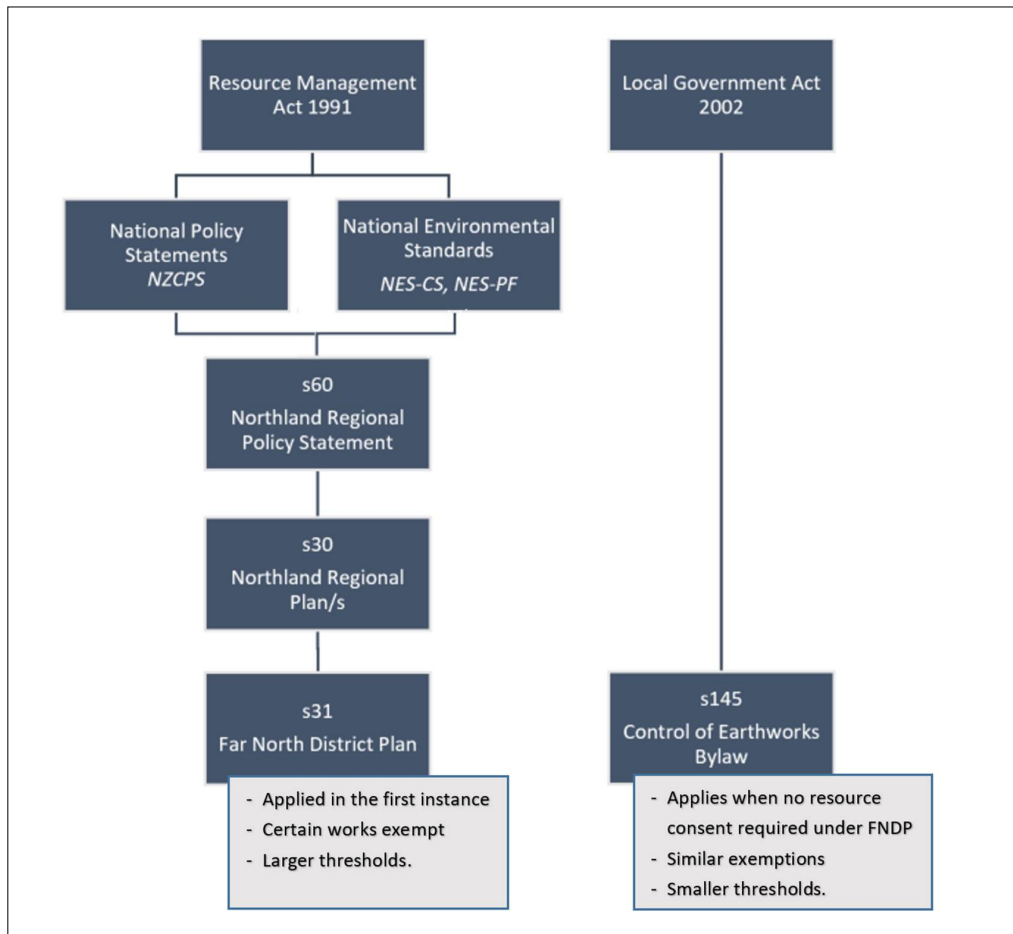


Figure 1: Relationship between the Bylaw and RMA statutory documents

The provisions of the proposed Earthworks chapter have been drafted to replace the Bylaw, to ensure all Earthworks controls are operated from a single source and are consistently applied and enforced. This will be discussed in further detail in the following analysis.

3.5.3 Community Development Plans

The Far North District Council, in conjunction with its communities, have developed 15 non-statutory Community Plans. These plans are designed to assist both the Council and the community to manage growth within their centres, whilst protecting those characteristics and features that the community values most.

A number of references to Earthworks activities were identified within these Plans. A common theme was the need for careful management of Earthworks and development activities as a method of protecting the natural environment and the character values each community exhibits. More specifically, the following key environmental outcomes were identified:

- Protection of versatile soils;
- Enhancement of indigenous biodiversity;
- Maintenance and enhancement of freshwater systems;
- Protection of natural landforms;
- Protection of coastal and marine environments;
- Maintenance and enhancement of wetlands; and
- Maintenance of pedestrian networks and coastal walkways.

A common theme identified within the plans is the importance of protecting the integrity of the soil resource by ensuring appropriate soil conservation methods, including erosion and sediment controls, are implemented when undertaking primary production and development activities. The PDP earthwork provisions have been established to achieve these outcomes.

4 Current State and Resource Management Issues

This section provides an overview of the relevant context for earthworks, outlines the current approach to manage Earthworks through the ODP, and highlights key issues raised through consultation. It concludes with a summary of the key resource management issues for Earthworks to be addressed through the PDP.

4.1 Context

Earthworks are anticipated across a range of urban and rural contexts. The volume and area of Earthworks required will vary depending on the type, scale and location of activities. Earthworks have the potential to cause significant and long-term adverse effects and are often associated with construction, development, land use and subdivision. Earthworks can result in adverse effects including instability, accelerated erosion and increased risk of natural hazards and sediment into waterways. Earthworks can become an issue when they are not appropriately managed with erosion and sediment controls, undertaken in sensitive natural or hazard environments, or within densely developed areas. Earthworks, have the potential to detrimentally alter and affect landforms, landscapes, natural features, historic and cultural heritage and the natural character of the coastal environment.

4.2 Operative District Plan Approach

4.2.1 Summary of current management approach

Currently, the provisions relating to Earthworks in the ODP are located in Chapter 12.3 – Soils and Minerals and across various other specific chapters within the District Plan including 12.1 – Landscapes & Natural Features, 12.4 – Natural Hazards and 12.5 – Heritage. The ODP is an effects-based plan and has limited activity-based provisions. The ODP approach is summarised below:

- Council currently applies a ‘dual’ approach, using both the ODP and the Control of Earthworks Bylaw to manage Earthworks across the District.
- The ODP enables Earthworks while avoiding, remedying or mitigating the adverse effects associated with excavation and filling.
- The ODP controls Earthworks with volume thresholds in a range of zone environments and resource overlays, as well as maximum cut and fill heights which are included as a control standard to address stability issues. When compliance cannot be met, resource consent is required.
- In addition, Council’s Engineering and Infrastructure Standards set out good practice in respect to avoiding, remedying or mitigating the adverse effects of excavation and filling activities which is relied upon by the Council.

4.2.2 Limitation with current approach

Council has reviewed the current ODP, which has been informed by internal workshops and feedback from tangata whenua, community and stakeholder feedback.

A number of limitations with the current ODP approach have been identified through this process, including:

- The Planning Standards seek to improve the efficiency and effectiveness of the planning system by providing nationally consistent structure, format, definition, electronic

functionality, and volume and area metrics. Additionally, they direct that Earthworks provisions should be located within a single Earthworks Chapter under 'District-Wide Matters'.

- The ODP use of volume as a single management tool is no longer in line with best practice, rather both area and volume thresholds across a time scale should be used to ensure more efficient and effective management of Earthworks across the District.
- Chapter 12.3 contains provisions to manage both Earthworks and minerals within the same chapter, rather these matters should each be contained within their own chapter, to ensure consistency with the Planning Standards. Further, Chapter 12.3 contains notes to reference other rules and standards within the ODP, however the relevant provisions should be clearly outlined within one chapter to ensure alignment with the Planning Standards.
- The 'dual' Bylaw and ODP approach represents an unnecessary duplication and utilisation of Council's resources. The District Plan review provides an opportunity to simplify Council's regulatory approach, which could subsequently see it removed should Earthworks be holistically managed via the PDP, including the incorporation of erosion and sediment control measures.
- Rule 13.6.8 Subdivision Consent Before Work Commences creates uncertainties for the Earthworks consent pathway for Earthworks associated with subdivision approval.

4.3 Key issues identified through consultation

The **Section 32 Overview Report** provide a detailed overview of the consultation and engagement Council has undertaken with tangata whenua, stakeholders and communities throughout the district to inform the development of the PDP and the key issues identified through this consultation and engagement. This section provides an overview of key issues raised through consultation in relation to the Earthworks chapter and a summary of advice received from iwi authorities on Earthworks:

4.3.1 Summary of issue raised through consultation

There was a moderate level of interest in Earthworks from the community through consultation and engagement of the PDP. Key issues identified through this process include:

- Spark – Some concern was raised about how the proposed volume and area thresholds would affect network utility activities across the District. Spark specifically requested that an exemption be provided for utility trenches that may exceed the maximum area and volume threshold for the respective overlay and zone over a long linear distance. Further, Spark requested that activities for pole foundations be exempt for the maximum 1.5m cut and fill depths, to enable activities that require concrete pads or poles that exceed this threshold. This has not been provided for in the PDP as it has not been demonstrated why extra depth is required for this type of infrastructure.
- Royal Forest and Bird Protection Society of New Zealand (**Forest & Bird**) – The key concerns raised by Forest & Bird relate to the lack of provisions within the PDP Earthworks chapter that specifically address the location and scale of Earthworks thresholds permitted within the overlay areas, with particular concern for natural character and indigenous biodiversity areas. Forest & Bird recommend that the PDP Earthworks provisions be amended to recognise the Earthworks restrictions are applied the various District Plan overlays, including significant natural areas, outstanding natural landscape and features, outstanding and high natural character, to ensure continued protection of these areas and avoid any unnecessary adverse effects. Forest & Bird also raised concerns that the PDP provisions as drafted did not appropriately protect conservation activities, as Earthworks would be permitted in overlay areas, such as the SNA where conservation covenants are likely in place, thus decreasing the effectiveness of this protection. The relief sought by Forest & Bird has been addressed as specific Earthworks provisions have been located as required in the overlay chapters.

- Top Energy Ltd (**Top Energy**) – A number of concerns were raised by Top Energy with respect to the suggested maximum thresholds, the absence of time within feedback period to measure and assess the thresholds and mapping methodologies used to determine the spatial extent of PDP overlays, including the ONC, HNC and SNAs. Top Energy sought amendments to the maximum threshold to better enable the installation, upgrade and maintenance of network utilities and requested the removal of the transmission line standards due to potential restrictions on their operations. Where considered appropriate, Top Energy's concerns have been addressed by incorporating EW-R6 which enables Earthworks for the, repair and upgrade of infrastructure by the operator or requiring authorities.
- Waka Kotahi New Zealand Transport Agency (**Waka Kotahi**) – Waka Kotahi largely support the Draft District Plan provisions, however they recommend that transport related activities such as maintenance and improvements to the transport network are exempt from the maximum volume and area thresholds specific in EW-S1. This is not considered required as the state highway network is designated in the PDP, and therefore is exempt from the earthwork's provisions.
- Earthworks Bylaw – Feedback received by an individual sought the removal of Earthworks provisions from the PDP. Instead recommending that all Earthworks be controlled by a Bylaw, that would require updating to broaden its regulatory scope. This approach is not considered appropriate to adequately address the directions of the RPS, NZCP, or achieve the purpose of the RMA. However, further evaluation of this approach is undertaken in Section 8.3.3 of this report.
- Overlap with Regional Plan – Some concerns were raised regarding the potential duplication of Earthworks provisions across the Regional and District Plans, and recommended that the regional provisions and/or advice notes were featured in the PDP to avoid confusion. This recommendation has been considered in the drafting of the proposed provisions and advice notes have been added where appropriate, and the standard controlling dust has not been included in the PDP.
- Clarity and consistency – General feedback was received regarding the clarity, consistency and coherence of the Draft Plan provisions, particularly as they apply to area specific environments and how they relate to resource overlays. The PDP has addressed this by incorporating notes and references to other Part 2 District-wide chapters and higher statutory documentation that requires consideration and assessment for land use and subdivision applications.

4.3.2 Summary of advice from iwi authorities

Section 32(4A)(a) of the RMA requires that evaluation reports include a summary of advice on a proposed plan received from iwi authorities. The **Section 32 Overview Report** provides an overview of the process to engage with tangata whenua and iwi authorities in the development of the PDP and key issues raised through that process. Eight pieces of feedback were received in relation to the Earthworks chapter. Section 3.4 above provided a summary of the key concerns and issues raised in hapū and iwi environmental management plans. In summary this feedback sought:

- Requirements for cultural impact assessments
- A dedicated objective and amendments to other objective to elevate protection of cultural values and the kaitiaki responsibilities of mana whenua
- Requirements that accidental discovery of cultural sites (e.g archaeology) protocol should be developed in consultation with affected iwi / hapū and their associated management plans
- Consistency with the NPS for Freshwater (2020)

Section 5 of this report outlines how the proposed management approach responds to this advice in accordance with section 32(4A)(b) of the RMA.

4.4 Summary of resource management issues

The Earthworks chapter was identified as a Significant Resource Management Issue (SRMI) in the development of the PDP. Earthworks are an important component of the use and development of land within rural and urban contexts, which can result in adverse effects on a wide range of significant resource management issues including historical and cultural landscapes, natural hazards, sites of significance to Māori, infrastructure, coastal areas, biodiversity and natural features

Based on the analysis of relevant context, current management approach, and feedback from consultation, the key resource management issues for the Earthworks chapter to be addressed through the PDP are:

- **Tangata Whenua Partnerships** – The Council recognises the importance of iwi/hapū planning documents and as such has assisted in the completion of a number of management plans which articulate the cultural and spiritual values Māori have with resources. Earthworks are a core concern identified in the management plans given the potential adverse effects on cultural values.
- **Affordable Infrastructure** – Earthworks are an integral part of the ability to provide infrastructure through enabling consolidated and coordinated development throughout the District.
- **Heritage Management** – The Far North has a wealth of historic heritage that contributes to the social, economic and cultural well-being of the district within both the rural and urban areas. Historic heritage, particularly archaeological and heritage sites which are unidentified can and are being damaged or lost from Earthworks activities if they are not appropriately managed.
- **Hazard Resilience and Climate Change** – Communities in the Far North District are vulnerable to a number of natural hazards. Earthworks activities need to be managed appropriately to ensure they don't exacerbate or increase the exposure of the community to the risks from natural hazards.
- **Rural Sustainability** – Earthworks are an important part of primary production activities and supporting the viable use of rural land. However, Earthworks can lead to adverse impacts on rural character and amenity, and therefore require careful management.
- **Indigenous Biodiversity** – There is currently inadequate protection and active management of the District's significant biodiversity. Earthworks in particular can detrimentally affect indigenous biodiversity if such activities are not appropriately managed and controlled.
- **Coastal Management** – There is a conflict between the need to preserve and protect the natural character of the coastal environment and provide for appropriate access and development. Earthworks are an important part of supporting access and development to and within the coastal environment, however they can also contribute to the loss of natural character and values within coastal areas and exacerbate the risk to people, property and infrastructure if Earthworks activities are not appropriately managed.
- **Urban Sustainability** – Earthworks are a critical part of supporting urban land use, subdivision and development to meet demands for urban infrastructure. However, Earthworks can lead to adverse impacts on urban character, amenity and infrastructure and therefore require careful management.

- **Outstanding Natural Landscapes and Features** – Earthworks provide the ability to develop and use land, however there are tensions between enabling such activities within outstanding natural landscapes and outstanding natural features and protecting the values and qualities of such sensitive areas which can be detrimentally affected by earthworks activities.

5 Proposed District Plan Provisions

The proposed provisions are set out in the Earthworks chapter of the PDP. These provisions should be referred to in conjunction with this evaluation report.

5.1 Strategic Objectives

The PDP includes a strategic direction section which provides high level direction on the strategic or significant matters for the District and objectives to guide strategic decision-making under the PDP. The strategic objectives of direct relevance to Earthworks are:

- **SD-CP-02** Te ao māori, tikanga māori and tangata whenua as kaitiaki, embedded in and integral to decision making.
- **SD-EP-01** A culture of stewardship in the community that increases the District's biodiversity and environmental sustainability.
- **SD-EP-02** Collaborative relationships with iwi and hapū in order to support tangata whenua to carry out their obligation and responsibility as kaitiaki.

5.2 Proposed Management Approach

This section provides a summary of the proposed management approach for Earthworks focusing on the key changes from the OPD. The **Section 32 Overview Report** outlines and evaluates general differences between the PDP provisions and ODP, which includes moving from an effects-based plan to a 'hybrid plan' that includes effects and activities-based planning and an updated plan format and structure to align with the Planning Standards.

The main changes in the overall proposed management approach are:

- Incorporation of matters controlled by the Control of Earthworks Bylaw to enable a streamlined approach to managing earthworks activities across the various zones and overlays, which will ensure more efficient and effective outcomes, monitoring and enforcement.
- The PDP introduces an area threshold to sit alongside the cut height and volume triggers to manage Earthworks. This approach also incorporates a range of activities that reflects the diverse role and function of different zones and environments, whilst managing potential adverse and reverse sensitivity effects.
- These changes are made to align with the Planning Standards and will provide a consolidated list of objectives, policies, rules and standards that specifically address Earthworks activities.

The sections below provide a high-level summary of the objectives, policies, and rules and other methods for the Earthworks chapter.

5.3 Summary of proposed objectives and provisions

This section provides a summary of the proposed objectives and provisions which are the focus of the section 32 evaluation in section 7 and 8 of this report.

5.3.1 Summary of objectives

The proposed management approach for Earthworks includes objectives that:

- Seek to enable Earthworks to facilitate the efficient use, subdivision and development of land, whilst managing the adverse effects on land, infrastructure, coastal areas, waterbodies and public safety.
- Seek to preserve the surrounding environment, including cultural and historic heritage, amenity values, indigenous biodiversity and the natural environment.
- Seek to manage Earthworks in a manner that does not compromise the stability of land, infrastructure, and public safety within local communities.

5.3.2 Summary of provisions

For the purposes of section 32 evaluations, ‘provisions’ are the *“policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change”*.

The proposed management approach for Earthworks includes policies that:

- Ensure Earthworks are enabled while managing the potential adverse effects associated with Earthworks activities, including adverse effects on the amenity, character and qualities of overlays and resource area when resource consent is required at a discretionary or non-comply activity status. Each overlay chapter has its own Earthworks requires as required opposed to it being located in the Earthworks chapter.
- Provide for a range of volume and area thresholds that uphold the character and amenity of respective zones and overlays.
- Manage potential reverse sensitivity effects by ensuring that activities requiring Earthworks are appropriately located and designed to manage the effects of that activity.
- Ensure Earthworks required for a specific activity are compatible with the scale, type and form expected within the receiving environment.

The proposed management approach for Earthworks includes rules and standards that:

- Set volume and area thresholds across a time scale that are appropriate with the function, amenity and predominant character of each zone.
- Provide for a range of Earthworks activities across various zones.
- Permits Earthworks that comply with the guidelines and recommendations of the Erosion and Sediment Control Guidelines for Land Disturbing in the Auckland Region 2016 (GD05).
- Provide for compliance with the permitted activity rules and standards, otherwise resource consent is required as a restricted discretionary, discretionary or non-complying activity.

The proposed management approach for Earthworks also involves the following methods to implement and give effect to the objectives:

- A streamlined list of definitions is included within the PDP to ensure alignment with the Planning Standards.
- Performance standards including:
 - Maximum volume and area thresholds specific to each zone, except for sites larger than 8ha in certain zones (e.g Rural Production) when undertaken for farming activities;
 - Maximum cut and fill depths and setbacks across all zones, except for sites larger than 8ha in certain zones (e.g Rural Production) when undertaken for farming activities;
 - Introduction of Accidental Discovery Protocol rule to manage Earthworks that may result in the discovery of non-scheduled historic heritage. This rule will have immediate legal effect in accordance with section 86B of the RMA (protects historic heritage); and
 - Introduction of standards such as land that is subject to flood hazard and overland flow paths.

5.3.3 Responding to advice from iwi authorities

Section 32(4A) of the RMA requires evaluation reports to summarise advice received from iwi authorities on a proposed plan and the response to that advice, including any provisions that are intended to give effect to the advice. Section 4.3.2 of this report provides a summary of advice received from iwi authorities on earthworks. The proposed management approach responds to this advice as follows:

- Te Runanga O Ngāti Rēhia
 - *EW-P5 should include a cultural impact assessment of any earthworks within 20m of a waterway if above the maximum thresholds and that the overview should highlight the ability of hapū to express their kaitakitanga.* The proposed framework sets a setback standard of 10m and no evidence has been provided to demonstrate why a more restrictive threshold should be applied. It is not considered a balanced approach to require an impact assessment automatically for an earthwork's application, this should be assessed on a case by case basis. Reference to matters such as kaitakitanga does not need to be stated in an overview, it should be built into the policy framework of the appropriate chapters. However, the overview was updated to include reference to earthworks having the potential to damage or destroy historic heritage and cultural sites. No change was made to EW-P5.

- Te Runanga O Te Rarawa
 - *Add an additional objective that states "earthworks are undertaken in a manner which recognises cultural heritage of the site and the kaitaki responsibilities of local mana whenua".* EW-02 already requires the preservation of historic heritage and cultural values. A standalone objective to address cultural heritage would be a duplication of the outcomes sought in an existing objective. Protection and the kaitaki responsibilities of mana whenua are provided for additionally in other chapters, including historic heritage and sites and areas of cultural significance.
 - *Alter EW-P5 by including new wording that would require a protocol for accidental discovery to be developed in consultation with affected tangata whenua and consistent with any relevant iwi/hapū management plan prior to undertaking earthworks.* In the PDP there is a standard that is linked to all the proposed rules, which sets out an accidental discovery protocol to follow. This is considered a practical approach, vs having a rule that required an individual one to be created in each instance. If a resource consent is required, there would be scope for a condition to be imposed to require this to occur if it could be demonstrated it was appropriate.
 - *Concern was raised over EW-S7 (Setbacks) not being consistent with higher order documents including the NPS-Freshwater (2020).* No further information was provided to demonstrate how it was not consistent. The NPS for Freshwater does not set any setback standards for earthworks. No change is required.

- Kahukuraariki, Matauri X, Ngati Kuri, Ngai Takoto, Whaingaroa, Ngati Kuta, Te Aupori
 - *Wanting stronger linkages to when a cultural impact assessment is required particularly in relation to sites of cultural significance, via changes to the policy framework. That additionally conditions of consent are imposed that require cultural monitoring, such as blessings, kaitaki attend pre works meetings (with costs being meet by the applicant).* Sites and areas of cultural significance are managed by its own chapter in the Plan, and also in some instances in the historic heritage chapter. When sites or areas are not scheduled in a plan these matters are considered at the time resource consent for any earthworks breach is considered where it may have an impact on historic heritage. Consideration can be given to whether a cultural impact assessment is required during the processing of resource consent applications. If one

is required then depending on the values identified or the risk, conditions of consent can be imposed to manage the adverse effects. To ensure that this is considered P-8 should be amended to highlight this as a matter of consideration when a consent is required under a earthworks rule breach.

- Ngati Kuta
 - *Amend EW-01 to include adverse effects on cultural values, archaeology, and historic heritage.* It is considered that would result in a duplication with EW-2 and therefore no change is required.
 - *Amend EW-P5 / EW-P8 to include the outcomes and recommendations of a cultural impact assessment.* It is considered that the framework already provides for this, but it would be appropriate to be more directive in EW-P8 to mention that consideration should be given to whether a cultural impact assessment is required.

6 Approach to Evaluation

6.1 Introduction

The overarching purpose of section 32 of the RMA is to ensure all proposed statements, standards, regulations, plans or changes are robust, evidence-based and are the most appropriate, efficient and effective means to achieve the purpose of the RMA. At a broad level, section 32 requires evaluation reports to:

- Examine whether the objectives in the proposal are the most appropriate to achieve the purpose of the RMA.
- Examine whether the provisions are the most appropriate way to achieve the objectives through identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions, including an assessment of environment, economic, social and cultural economic benefits and costs.

These steps are important to ensure transparent and robust decision-making and to ensure stakeholders and decision-makers can understand the rationale for the proposal. There are also requirements in section 32(4A) of the RMA to summarise advice received from iwi authorities on the proposal and the response to that advice through the provisions.

6.2 Evaluation of scale and significance

Section 32(1)(c) of the RMA requires that evaluation reports contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of this proposal. This step is important as it determines the level of detail required in the evaluation of objectives and provisions so that it is focused on key changes from the status quo.

The scale and significance of the environmental, economic, social and cultural effects of the provisions for Earthworks are evaluated in the table below.

| Criteria | Comment | Assessment |
|---|--|------------|
| Raises any principles of the Treaty of Waitangi | The principles of partnership, participation and protection have been taken into consideration in the drafting of the PDP provisions. Overall, earthworks have the potential to generate adverse environmental, economic, social and cultural effects on a range of Section 6 RMA matters as outlined in Section 3.1 of this report. | Medium |

| Criteria | Comment | Assessment |
|--|---|------------|
| | Furthermore, earthworks are consistently raised as a matter in iwi and hapū management plans for the District. An accidental discovery rule will be in the PDP, and if resource consent is required cultural matters can be taken into account in most rule breaches. | |
| Degree of change from the Operative Plan | The PDP chapter introduces a consolidated list of earthworks objectives, policies and provisions that apply to various zones across the District Plan to manage the effects of defined activities and effects of land use, subdivision and development. The overlays as required will also have earthworks provisions. This is a similar approach to the OPD. The main difference is the ODP was effects based opposed to using activities lists and focused on volume and heights of cut and fill. The PDP looks at a wider range of effects as it is intended to negate the need for an earthworks bylaw for example. | High |
| Effects on matters of national importance | The PDP introduces clear objectives, policies and provisions to ensure the appropriate management and protection of the range of matters of national importance identified in Section 3.1 of this report, including the coastal environment, historical and cultural heritage, tangata whenua and natural hazard risks. Given earthworks have the potential to generate adverse effects on a range of Section 6 matters, the medium level assessment is considered appropriate in this case. | Medium |
| Scale of effects – geographically (local, district wide, regional, national). | Earthworks can result in a range of adverse effects in rural and urban environments across local, district, regional and national scales, as outlined above. Although the Proposed Regional Plan Earthworks Chapter will be applied district-wide, the medium level assessment is considered appropriate in this case. | Medium |
| Scale of people affected – current and future generations (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?). | Earthworks are a fundamental part of development that occurs across a range of rural and urban contexts. The earthworks provisions are a common consenting matter that will be frequently triggered due to the need to undertake earthworks commonly for the construction part of subdivision, use or development. Given the scale of people affected by earthworks provisions, the medium level assessment is considered appropriate in this case. | Medium |

| Criteria | Comment | Assessment |
|---|---|------------|
| Scale of effects on those with specific interests, e.g., Tangata Whenua | Given the scale of earthworks effects that could potentially impact on all tangata whenua, as well as a large number of stakeholder groups with specific interests (such as federated farmers), a medium level assessment is considered appropriate in this case. Although the earthworks provisions will be streamlined and simplified with reduced ambiguity meaning that plan implementation is likely to improve, the need for resource consents may still be required under the revised framework but this will be limited to the activities that are likely to generate adverse effects on the environment. | Medium |
| Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice? | Overall, the PDP approach aligns with the Planning Standards, with many of the changes attributed to consequential format and structure changes. The Proposed Regional Plan chapter replaces the existing ‘dual’ approach to earthworks which is managed under the District Plan and Bylaw, resulting in no overarching management via the Local Government Act. | Medium |

6.3 Summary of scale and significance assessment

Overall, the scale and significance of the effects from the proposal is assessed as being medium. Consequently, a moderate level of detail is appropriate for the evaluation of the objectives and provisions for Earthworks in accordance with section 32(1)(c) of the RMA. This evaluation focuses on key changes in the proposed management approach from the ODP - minor changes to provisions for clarification and to reflect new national and regional policy direction are not included in the evaluation in section 7 and 8 below.

7 Evaluation of Objectives

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. The assessment of the appropriateness of the objectives for Earthworks is against four criteria to test different aspects of ‘appropriateness’ as outlined below.

| Criteria | Assessment |
|----------------|--|
| Relevance | <ul style="list-style-type: none"> Is the objective directly related to a resource management issue? Is the objective focused on achieving the purpose of the RMA? |
| Usefulness | <ul style="list-style-type: none"> Will the objective help Council carry out its RMA functions? Does the objective provide clear direction to decision-makers? |
| Reasonableness | <ul style="list-style-type: none"> Can the objective be achieved without imposing unjustified high costs on Council, tangata whenua, stakeholders and the wider community? |

| | |
|---------------|--|
| Achievability | <ul style="list-style-type: none"> Can the objective be achieved by those responsible for implementation? |
|---------------|--|

Section 32 of the RMA encourages a holistic approach to assessing objectives rather than necessarily looking each objective individually. This recognises that the objectives of a proposal generally work inter-dependently to achieve the purpose of the RMA. As such, the objectives for Earthworks have been grouped in the evaluation below.

7.1 Evaluation of existing objectives

| | |
|--|--|
| Objective 12.3.3.1: To achieve an integrated approach to the responsibilities of the Northland Regional Council and Far North District Council in respect to the management of adverse effects arising from soil excavation and filling, and minerals extraction. | |
| Relevance | The objective seeks to avoid duplication of responsibilities between regional and district councils, seeking have an integrated approach to managing adverse effects. |
| Usefulness | This objective is unnecessary as the functions of each Council are clearly set out in the RMA so is an unnecessary duplication of functions/text within the ODP. |
| Reasonableness | There is no clear integration of the policy framework outlining the relationship between relevant objectives and policies that relate to earthworks. |
| Achievability | The ODP provides controls that are achievable, however there is no clear policy framework that allows for the specific management of earthworks activities, as the existing provisions combine earthworks and minerals as one topic. |
| Overall evaluation | |
| Both the Regional Council and District Council have functions and responsibilities in relation to managing earthworks. It is important that both Councils work collaboratively when managing earthworks and protecting the soil resource while avoiding unnecessary overlap or duplication of functions. As discussed above, this objective is not considered to hold significant importance or value within the earthworks chapter. | |

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| Objective 12.3.3.2: To maintain the life supporting capacity of the soils of the District. | |
| Relevance | The district has a great variety of soil types, with widely varying suitability for a range of purposes, thus the life supporting capacity needs to be protected from degradation or loss as a result of unsustainable land use practices. |
| Usefulness | The existing objective is lacking specificity as it focuses on a broader range of issues other just earthworks, thus does not provide clear direction in the management of earthworks. Instead, a more tailored objective is more appropriate. |
| Reasonableness | The objective is not clearly integrated within the wider policy framework, given the high-level focus that does not specifically link with the existing provisions. |
| Achievability | The ODP provides controls that are achievable, however given the broad nature of the objective, there is no clear policy or rule that reflects this. |
| Overall evaluation | |
| The objective is not suitable as currently worded for inclusion in the proposed earthworks chapter. This objective is focused and targeted on a broader range of issues than just earthworks. Given the dedicated nature of the policy framework for earthworks under the PDP and Planning Standards, structure, the concept of protecting soil resources can be incorporated in the objectives and policies in a more targeted and appropriate manner than the current objective. | |

| | |
|---|---|
| Objective 12.3.3.3: To avoid, remedy or mitigate adverse effects associated with soil excavation or filling. | |
| Relevance | Earthworks (i.e., soil excavation and filling) can have significant adverse effects. While earthworks need to be enabled, it is important to ensure that the adverse effects associated with earthworks on amenity, heritage, cultural values and landscapes are appropriately managed to avoid unnecessary loss or damage. |
| Usefulness | The intent of this objective applies to the range of earthwork activities that are managed under the ODP. |
| Reasonableness | The objective can be achieved within the existing ODP policy framework, however refinements are recommended to ensure alignment with best practice. |
| Achievability | This can be achieved under the ODP via the provisions. |
| Overall evaluation | |
| The intent of this objective is still appropriate and will be carried across to the proposed objectives for the earthworks chapter. However, some minor wording changes will be required to align the objective with the definitions in the Planning Standards. | |

| | |
|---|--|
| Objective 12.3.3.4: To enable the efficient extraction of minerals whilst avoiding, remedying or mitigating any adverse environmental effects that may arise from this activity. | |
| Relevance | Although earthworks and minerals objectives are contained within the same chapter in the ODP, any objectives for minerals will be addressed in a separate chapter and are not relevant considerations within the earthworks chapter. |
| Usefulness | Given the best practice recommendations from the Planning Standards, this objective is not considered useful in this case as it does not relate to earthworks. The objective lacks direction due to the open language. |
| Reasonableness | The objective is contained within the existing ODP policy framework, however this is not relevant to the managing the effects of earthworks. |
| Achievability | The ODP provides controls that are achievable, however clear policy direction for minerals is necessary outside of the earthworks chapter. |
| Overall evaluation | |
| Mineral extraction should be enabled within the District, however this is not relevant to the earthworks chapter given the new structure and format of the PDP to ensure alignment with the Planning Standards. | |

7.2 Evaluation of proposed objectives

| | |
|---|---|
| Objective (EW-01): Earthworks are enabled where they are required to facilitate the efficient subdivision and development of land, while managing adverse effects on waterbodies, coastal marine area, public safety, surrounding land and infrastructure. | |
| Relevance | Enabling earthworks while managing their adverse effects on the environment will assist Council to undertake its requirements under section 31 of the Act. Additionally, earthworks are a critical activity in terms of their relevance to the significant resource management issues outlined in the District Plan – refer to section 4.1 for significant resource management issues relevant to the proposed earthworks chapter. |
| Usefulness | The proposed objective will guide decision makers acknowledging that the enablement of earthworks needs to be balanced with the management of adverse effects. Research across a number of other plans in the country has indicated that a similar |

| | |
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| | objective(s) regarding this balance is generally provided. |
| Reasonableness | <p>The proposed objective will not result in unjustifiably high costs to the community or parts of the community. The direction to enable earthworks leads to provisions that necessarily enable them while also ensuring that adverse effects are appropriately managed.</p> <p>There is considered to be an acceptable level of uncertainty and risk as enablement of earthworks is balanced by the directive to manage adverse effects.</p> |
| Achievability | Council has had earthworks controls within the District for a number of years, therefore it is considered that the proposed objective can be realistically achieved within the Council and public's powers, skills and resources. |
| Overall evaluation | |
| <p>This objective seeks to strike a balance between enabling earthworks while managing adverse effects. The proposed objective achieves the purpose of the RMA as it recognises the importance of earthworks activities to enable the subdivision, use and development of land in a manner that allows people and communities to provide for their social, economic and cultural wellbeing. However, it is acknowledged that the enablement of earthworks needs to be balanced with the management of adverse effects on waterbodies, public safety, surrounding land and infrastructure.</p> | |

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| Objective (EW-O2): Earthworks are appropriately designed, located and managed to protect historical and cultural values, natural environmental values, preserve amenity and safeguard the life-supporting capacity of soils. | |
| Relevance | <p>Directing the preservation of these values / matters will assist Council to undertake its requirements under section 31 of the Act.</p> <p>The matters listed in this objective are directly relevant to Part 2 matters in the RMA which Councils are required to recognise and have regard to.</p> <p>Additionally, many of the matters listed in this objective are directly relevant to the significant resource management issues outlined in the District (refer to Section 4.4 for more information on resource management issues).</p> |
| Usefulness | <p>The proposed objective will guide decision makers in ensuring that any proposed earthworks preserve these important values / matters.</p> <p>The objective is generally in accordance with best practice and is directly relevant to Section 6 matters outlined within the RMA.</p> |
| Reasonableness | <p>The proposed objective will not result in unjustifiably high costs to the community or parts of the community. The preservation of these values / matters is identified as matters of national importance in Section 6 of the Act that are required to be recognised and provided for and other matters that need to be given particular regard to.</p> <p>Further, there is considered to be an acceptable level of uncertainty and risk associated with this objective.</p> |
| Achievability | It is considered that the objective is achievable under the PDP given there is clearer direction and expected outcomes sought across the different zone and overlays. Further, the proposed objective can be realistically achieved within the Council and public's powers, resources and skills. |
| Overall evaluation | |
| <p>The purpose of this objective is to ensure that the enablement of earthworks appropriately preserves a number of key matters of national importance and other matters within Part 2 of the RMA. This provides clarity of the values that the PDP chapter is trying to preserve in the management of earthworks for land use, subdivision and development. Further, the objective will also give effect to the RPS, particularly Objective</p> | |

3.14 which relates to the management of historic heritage, natural character and the ONF/ONL areas.

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| Objective (EW-03): Earthworks are undertaken in a manner which does not compromise the stability of land, infrastructure and public safety. | |
| Relevance | <p>Enabling earthworks while managing their adverse effects on the environment will assist Council to undertake its functions under Section 31 of the Act.</p> <p>Earthworks are a critical activity in terms of their relevance to the significant resource management issues outlined in the District Plan – refer to Section 4.4 for significant resource management issues relevant to the proposed earthworks chapter.</p> |
| Usefulness | The proposed objective will guide decision makers acknowledging that the enablement of earthworks needs to be balanced with the management of adverse effects. |
| Reasonableness | <p>The proposed objective will not result in unjustifiably high costs to the community or parts of the community. The direction to enable earthworks leads to provisions that necessarily enable them while also ensuring that adverse effects are appropriately managed.</p> <p>Further, there is considered to be an acceptable level of uncertainty and risk as enablement of earthworks is balanced by the directive to manage adverse effects.</p> |
| Achievability | As noted above, Council has had earthworks controls within the District for various years, thus the proposed objective can be realistically achieved within Council’s resources, powers and skills. |
| Overall evaluation | |
| This proposed objective specifically acknowledges that earthworks can compromise the stability of land, infrastructure and public safety if not appropriately managed. This is an important outcome that is necessary for people and communities to provide for their social, economic and cultural well-being and for their health and safety as directed by section 5(2) of the RMA. | |

8 Evaluation of Provisions to Achieve the Objectives

8.1 Introduction

Section 32(1)(b) of the RMA requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by:

- (i) *identifying other reasonably practicable options for achieving the objectives; and*
- (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) *summarising the reasons for deciding on the provisions.*

When assessing the efficiency and effectiveness of the provisions in achieving the objectives, section 32(2) of the RMA requires that the assessment:

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) *economic growth that are anticipated to be provided or reduced; and*
 - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

This section provides an assessment of reasonably options and associated provisions (policies, rules and standards) for achieving the objectives in accordance with these requirements. This assessment of options is focused on the key changes from the status quo as outlined in the 'proposed management approach' in Section 5.2 of this report.

Each option is assessed in terms of the benefits, costs, and effectiveness and efficiency of the provisions, along with the risks of not acting or acting when information is uncertain or insufficient. For the purposes of this assessment:

- **effectiveness** assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issues
- **efficiency** measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

The sections below provide an assessment of options (and associated provisions) for achieving the objectives in accordance with sections 32(1)(b) and 32(2) of the RMA. An overall assessment of the Earthworks Chapter and provisions is provided in Section 8.3.

8.2 Quantification of benefits and costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs (environmental, economic, social and cultural) of a proposal are quantified. The requirement to quantify benefits and costs if practicable recognises it is often difficult and, in some cases, inappropriate to quantify certain costs and benefits through section 32 evaluations, particularly those relating to non-market values.

As discussed in section 6.2, the scale and significance of the effects of proposed changes for Earthworks are assessed as being medium. Therefore, exact quantification of the benefits and costs of the different options to achieve the objectives is not considered to be necessary or practicable for earthworks. Rather this evaluation focuses on providing a qualitative assessment of the environmental, economic, social and cultural benefits and costs anticipated from the provisions with some indicative quantitative benefits and costs provided where practicable.

8.3 Evaluation of options

8.3.1 Option 1: Status quo

| <i>Option 1: Status quo – Council manages earthworks through the ODP and the Control of Earthworks Bylaw</i> | | |
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| Benefits | Costs | Risk of acting / not acting |
| <ul style="list-style-type: none"> Quality of the environment and amenity values are maintained to an extent. Represents a familiar approach and as a result may be considered to be economically beneficial in some instances to continue with this approach. Social benefits may arise through the continuation of an established approach which is familiar for plan users. No cultural benefits identified. Consistency with already used and understood approach. Note: No economic growth and employment opportunities arising from these options. | <ul style="list-style-type: none"> Greater risk of adverse effects resulting from earthworks approved under the Bylaw with no compliance or monitoring checks. Limited enforcement options and continued lack of enforcement action undertaken with regards to works approved under the Bylaw. Identified issues raised with the application of the dual regime (i.e. duplication in resources, confusion over applicability, multiple Council applications/approvals required for single projects) will continue to result in economic and social impacts for the Council and community. The ODP does not include controls to manage the surface area of earthworks. This ignores the potential adverse effects that can result from these types of activities. Increased costs to applicants, required to apply for both land use consent and earthwork permit. | <ul style="list-style-type: none"> The current policy framework lacks appropriate controls to manage the adverse effects of earthworks that can arise when surface area are not triggered. This allows earthworks that can occur over a large area to go unregulated with their effects only limited by the controls in the Bylaw. The risks of not acting will mean Council’s approach to the management of earthworks is not in line with best practice. |
| <p>Effectiveness</p> <ul style="list-style-type: none"> The ODP provisions do not clearly reflect the unique character and amenity values anticipated across each zone and overlay, reducing the effectiveness in managing the adverse effects of earthworks resulting from development and subdivision. The current approach to managing earthworks relies on two dual regimes under two independent legislative tools, one of which has limited monitoring and enforcement powers with regards to compliance (i.e. Bylaw). The current approach provides an unclear policy framework within | | <p>Efficiency</p> <ul style="list-style-type: none"> The provisions do not appropriately support the range of earthworks activities across rural and urban contexts. Although the current ‘dual’ approach to earthworks management is familiar for local communities, the issues associated with this, including duplication of resources, confusion over applicability and limited enforcement action associated within the Bylaw process, it is considered that a more streamlined approach would be more efficient. As such, the costs are considered to outweigh the benefits of continuing with the status quo and would |

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| <p>the ODP as provisions are spread across various chapters of the District Plan and do not clearly link the matters of Section 6 of the RMA. Thus, a refined approach to managing earthworks would be more effective and provide a clearer link to the purpose of the Act.</p> | <p>be contrary to the higher statutory direction provided in the Planning Standards.</p> |
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Overall evaluation

On balance this option is not considered to be the most appropriate option to achieve the objectives because:

- The dual approach to managing earthworks under the District Plan and Bylaw is an inefficient and ineffective approach.
- The ODP provisions are contained across various zone and overlay chapters, which does not accord with the higher order statutory directions and the Planning Standards which direct a single Earthworks Chapter.
- The provisions lack specificity and provides an effects-based plan as opposed to an activity based plan, that does not adequately address earthworks activities.

8.3.2 Option 2: PDP provisions and no bylaw – Preferred approach

| <i>Option 3: Proposed Plan Change and no Bylaw - Proposed Earthworks Chapter and removal of the Earthworks Bylaw</i> | | |
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| Benefits | Costs | Risk of acting / not acting |
| <ul style="list-style-type: none"> • Comprehensive consideration of earthworks activities, including erosion and sediment concerns, will be considered in conjunction with the wider development proposal and managed through the district plan, relying on RMA consultation, notification, and enforcement processes. • The ability to consider all effects of earthworks (including amenity and traffic) through one statutory tool with a common regulatory process and objectives would have the potential to achieve a beneficial environmental outcome. • The ability to consider non-compliance in relation to all earthworks through the RMA process ensures that the outcomes identified in the FNDP are achieved, resulting in greater environmental outcomes. • A simplified management regime may result in a more efficient process for both Council and applicants. • Utilising a single statutory tool may result in a greater awareness and understanding for communities and plan | <ul style="list-style-type: none"> • The proposed earthworks chapter has been drafted to replace the provisions of the Bylaw. As such, no environmental or cultural costs have been identified with this option. • Potential for applicants to incur greater cost and time involved in having to obtain a resource consent for earthworks activities that were previously permitted by the ODP managed by the Bylaw. Generally, a resource consent is associated with higher application costs than a bylaw dispensation (i.e., Earthworks Permit). • Compliance costs for works previously managed by the Bylaw will increase and may be substantial, given the required process of issuing infringement fines and abatement notices under the RMA. • Plan users will need to familiarise themselves with a new, single management approach to | <ul style="list-style-type: none"> • The risk of acting on these provisions is low, considering the extent of issues experienced under the ODP framework and the proposal changes to address these matters. The proposed approach is also generally consistent with other second-generation district plans throughout New Zealand. Not acting on this approach may mean that the current implementation issues with the ODP continue and incrementally result in loss of amenity values, adverse effects on instability and quality of the environment. |

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| <p>users regarding the location and interpretation of earthworks controls.</p> <ul style="list-style-type: none"> • The community has greater opportunity to challenge whether the rules for all earthworks and any decisions on resource consent applications are consistent with or promote the objectives of the plan and are appropriately managing adverse effects of such works. • All rules and standards are clearly laid out in a single chapter with a clear framework to manage noise generating activities in accordance with the direction in the Planning Standards. • There will be a rule to manage the accidental discovery of historic heritage opposed to the current framework that relies on the New Zealand Historic Heritage Pouhere Tonga Act to only manage this risk. | <p>earthworks.</p> | |
| <p>Effectiveness</p> <ul style="list-style-type: none"> • The proposed provisions give effect to the Planning Standards, RPS and are considered to accord with the RMA. The preferred approach of Option 3 will allow for comprehensive consideration of earthworks activities in conjunction with the wider development, including providing a pathway for consultation and a consistent approach in managing the associated adverse effects of these works. It will improve consistency and assist in achieving better environmental outcomes through robust RMA monitoring and enforcement processes. The proposed provisions will be effective in achieving the associated objectives as the rule framework controls the types of activities permitted across various zones and overlays whilst balancing the adverse effects that could arise from these activities. | <p>Efficiency</p> <ul style="list-style-type: none"> • Option 2 provides a high level of certainty and clarity about the types of activities that require consent for land use, subdivision and development, which are managed via volume and area thresholds, setbacks and cut/fill depths that ensure any potential adverse effects on the natural character, amenity and stability of District Plan zones and overlays are minimised. The proposed option is considered to be the most efficient method in achieving the objectives, having the greatest benefits which outweigh the costs when compared to the other options considered. | |
| <p>Overall evaluation</p> <p>On balance this option is considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> • The proposed provisions proposed provisions set clear, manageable noise, and explicit directions in terms of permitted activities and standards that align with the predominant function, character, and amenity of the zone. • The effects of earthworks activities are actively managed through the proposed standards that provide maximum volume and area thresholds, setback requirements and introduce erosion and sediment control guidelines for example. • It will result in a higher level of protection for historic heritage, which is important issue for the District due to the scale of potentially unscheduled Heritage | | |

Resources.

8.3.3 Option 3: Bylaw only

Option 4: Bylaw only – Removing earthworks provisions from the District Plan and rely on the Control of Earthworks Bylaw

| Benefits | Costs | Risk of acting / not acting |
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| <ul style="list-style-type: none"> • The application of a simpler, streamlined bylaw approval process may result in positive environmental outcomes through greater adherence to the rules. • The cost of applications for ‘dispensation’ under the Bylaw (i.e., Earthworks Permits) are far less than those incurred through the resource consent process. • Over time, local communities and plan users would become more familiar with the use of a single, stand-alone statutory tool for managing earthworks. • Quicker and more cost-effective process to obtain dispensation for the Bylaw, including decreased litigation costs to the Council and as a result the public, due to the Bylaw decision making process. | <ul style="list-style-type: none"> • Risk of significant adverse effects given the narrow scope of control provided under the Bylaw. • The tools associated with the Bylaw do not enable the same ability to consider effects (i.e., visual amenity, traffic, cultural values) on external parties, i.e., neighbours, conservation groups, iwi, and provide no formal consultation/notification process to manage these. • Limited enforcement tools associated with the Bylaw may result in greater adverse effects. • The use of a Bylaw may not achieve, or be as efficient at implementing the policy framework given this tool is removed from the RMA decision making process. Where applications for dispensation are sought under the Bylaw, different considerations apply from those that would be had under the RMA framework. • Potential for community involvement in decision making process would be considerably lessened compared to that of which is provided for under the resource consent process, and would have lesser opportunity to be challenged if decisions are inconsistent with the objectives and policy framework. Equally, those seeking to | <ul style="list-style-type: none"> • The risk of acting on the LGA only approach means that Council may not be carrying out its duty/requirements under the RMA. This approach may result in adverse effects on the environment and the safety of people. This would not maintain and enhance amenity values or the quality of the environment). It is considered that there is sufficient information not to act on these. |

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| | <p>undertake earthworks have less of an ability to challenge decisions made in relation to the Bylaw.</p> <ul style="list-style-type: none"> Plan users will need to familiarise themselves with a new regulatory framework. | |
| <p><u>Effectiveness</u></p> <ul style="list-style-type: none"> The proposed provisions do not give effect to the RMA as all provisions related to enabling and managing the effects of earthworks activities will be managed via the LGA. As such, reliance on the Bylaw may not achieve or be as efficient in implementing the policy framework necessary for managing earthworks in the District given there are no District Plan functions to consider the RMA within the decision-making process. Given the layout and structure of the Bylaw is different to the Bylaw and does not factor in other effects, such as traffic, historic heritage, overlays and iwi, it is uncertain how effective this process will be. | <p><u>Efficiency</u></p> <ul style="list-style-type: none"> Removing the ‘dual’ approach to managing earthworks, will create a more streamlined bylaw process and will reduce the costs of the process for applications. Given the absence of RMA processes that require provisions to align with objectives and policies, it is uncertain how appropriate the Bylaw process will be, especially given there are no other considerations that must be addressed. Based on the above, it is considered that the benefits do not outweigh the costs associated with this option. | |
| <p><u>Overall evaluation</u></p> <p>On balance this option is not considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> While this option has some identified efficiencies in terms of the process and costs involved in applying for dispensation or for undertaking enforcement action, it is not considered to be efficient or effective. | | |

9 Summary

An evaluation of the proposed objectives and provisions for the Earthworks chapter has been carried out in accordance with section 32 of the RMA. This evaluation has concluded that the objectives are the most appropriate way to achieve the purpose of the RMA and the provisions as detailed are the most appropriate way to achieve the objectives for the following reasons:

- The objective and policies are designed to enable Earthworks activities whilst managing any adverse effects on the natural and built environment.
- The provisions have been designed to recognise, manage and protect the unique character values and intent of various zones and overlays in the PDP. In particular, the relevant controls for Earthworks activities that have potential effects on matters of national importance as required by Section 6 of the RMA have been specified in the relevant overlay chapter, while still integrating with the Earthworks chapter, which will continue to have regard to those matters as is appropriate at the time of processing a resource consent.
- Permitted activity rules are provided that allow activities within specified volume and area thresholds to effectively manage the potential effects of the Earthworks on the site and surrounding environment, such as site instability, subject to meeting the relevant rules and associated effects standards.
- Restricted Discretionary Activity rules are included that manage Earthwork activities that do not meet the permitted activity standards, along with matters of discretion that enable the potential adverse effects of Earthworks on the character of the surrounding environment and amenity values to be addressed, and proposed mitigation measures to be considered.
- Discretionary activity status rules manage the effects of Earthworks generated from certain activities where it is not appropriate to restrict discretion. This includes Earthworks that result in accidental discovery of historic heritage.
- Non-complying activity status rules for the management of Earthworks within close proximity to transmission lines and the National Grid.

Overall, it is considered that the proposed provisions are the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions.

10 Appendices

10.1 Appendix 1: Far North District Council Control of Earthworks Bylaw