

FNDC Proposed District Plan Hearing 4 - August 2024

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PDP CHAPTER ON ECOSYSTEMS AND INDIGENOUS BIODIVERSITY

As stated in our submissions: We consider that the PDP chapter provisions do not yet give full and proper effect to the RMA, RPS and other relevant provisions. It is a matter of concern that a number of submitters seek to weaken the text further.

RMA functions and obligations

The text of PDP Policies needs to be strengthened to implement all relevant provisions of the RMA and support the council's functions and obligations stated in the RMA (summarised in Box 1).

Box 1. Examples of relevant functions and obligations stated in the RMA

- *Safeguarding the life-supporting capacity of ecosystems* – a key part of the Purpose of the RMA s5. (The RMA definition of *environment* also covers '*ecosystems*' s2(1)).
- The *maintenance of indigenous biological diversity*; a core function, to give effect to the Act (RMA s31(1)(b)(iii)).
- Obligation to *recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna* as a matter of national importance (RMA s6(c))
- Obligation to have particular regard to the *intrinsic values of ecosystems*, when managing the use, development and protection of natural resources, under RMA s7(d).
- Obligation to have particular regard to the *maintenance and enhancement of the quality of the environment*, under RMA s7(e) & (g).
- Matters that '*must*' be addressed by assessments of environmental effects include:- **any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity'** (RMA Schedule 4 clause 7(c)).

Note: The proposed changes to the NPS-IB do not remove these RMA obligations

IB Objectives and Policies do not cover the full range of ecological matters specified in the RMA (Box 1 above). For example -

- Ecosystems: '*safeguarding the life-supporting capacity of ecosystems*' (RMA s5 Purpose) –
 - IB-P2 and IB-P3 address only '*ecosystems that are particularly vulnerable to modification*'
- Intrinsic values: paying particular regard to the *intrinsic values of ecosystems*, when managing the use, development and protection of natural resources (obligation, RMA s7(d))-
 - Intrinsic values are not mentioned, not recognized
- Matters that '*must*' be addressed by assessments of environmental effects include: *any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity'* (RMA Schedule 4 clause 7(c)) –
 - Phrases not mentioned in IB-P10 matters to be considered
- **The Rules** in the Biodiversity chapter only address the area of indigenous vegetation that can be cut down without requiring a consent.

PDP strategic direction for the natural environment

The PDP's Strategic Direction for the natural environment includes objectives relating to ecosystems and indigenous biodiversity, including -

- SD-NE-O3: 'Active management of ecosystems to **protect, maintain and increase** indigenous biodiversity for future generations'
- SD-NE-O6: 'Areas of significant indigenous vegetation and significant habitats of indigenous fauna are **protected** for current and future generations'.

However, as currently drafted, the PDP chapter on Ecosystems & Biodiversity contains several Policies that do not sufficiently **protect and increase** indigenous biodiversity.

The Policy clauses relating to ecological protection are weak overall, or refer to limited aspects only.

As an example, our notes on the Draft PDP of 2021 indicate it contained a policy that aimed to 'Protect indigenous biodiversity by considering the following matters when assessing proposals for land use and subdivision..' That draft text was later changed to 'manage' in the notified PDP; and the current s42 report on IB-P10 recommends 'consider', which seems weaker.

Moreover, as noted in our submissions, the Rules in the PDP Ecosystems & Biodiversity chapter primarily address the area of indigenous vegetation that can be cleared without a resource consent.

JUSTIFICATION FOR PROTECTION OF INDIGENOUS BIODIVERSITY & ECOSYSTEMS

Aotearoa's unique flora and fauna

*Our country's 'unique flora and fauna has been shaped through millions of years of isolation with a high percentage of species found nowhere else on earth. Since the arrival of people and changing land use a high percentage of indigenous species have been lost through habitat modification and clearance, over-harvesting and introduction of exotic species that have become plant and animal pests.'*¹

Over 75% of Aotearoa's species are endemic, which means they are found nowhere else on the planet. This places a huge responsibility on decision-makers, tangata whenua and the community to protect these unique creatures, and to support their recovery from the damage caused by introduced predators and habitat loss.²

Biodiversity is crucial for humans and for the environment

Protecting indigenous biodiversity ensures the stability, resilience, and productivity of ecosystems, which are essential for the well-being of life on earth. It is vital for sustaining natural processes, supporting human livelihoods, and maintaining the planet's health. Biodiversity is therefore essential for the health and stability of ecosystems and human well-being.

Under the RMA, *biological diversity* is defined as: *the variability among living organisms, and the **ecological complexes** of which they are a part, including diversity within species, between species, and of ecosystems* (RMA s2(1)).

Protecting indigenous biodiversity is crucial for diverse reasons -

¹ NZ Landcare Trust (2007) Towards a Strategic Direction for Biodiversity Enhancement, report for NRC, DOC, NZ Landcare Trust, , p.6, <https://www.nrc.govt.nz/media/sofiojxl/whole-of-northland-project-complete.pdf>

² Project Island Song, <https://projectislandsong.co.nz/restoring-taonga-wildlife/>

Protecting biodiversity to support human wellbeing

- **Climate resilience:** Diverse ecosystems help buffer against the impacts of climate change by maintaining ecosystem functions and providing natural defences.
- **Economic benefits:** Biodiversity supports industries such as agriculture, forestry, fisheries, and tourism, which are vital for the economy.
- **Medicine:** Many medicines are derived from natural compounds found in plants, animals, and microorganisms. Biodiversity is a source of new medicinal discoveries.
- **Ecosystem services:** Biodiversity contributes to essential ecosystem services such as pollination, soil formation, nutrient cycling, water purification, and climate regulation.
- **Food security:** Biodiversity is the foundation of agriculture, providing a diverse range of crops and livestock that are essential for nutrition and food security. This aspect will become more important in future as a result of climate change.
- **Cultural and recreational value:** Biodiverse environments offer recreational opportunities and are integral to cultural identity and heritage for many communities.
- **Aesthetic value:** Biodiverse natural environments can provide inspiration and pleasure to humans, and enable a sense of connection to nature.
- **Scientific and educational importance:** Biodiversity offers vast opportunities for scientific research and education, leading to discoveries that can benefit humanity in numerous ways.

Protecting biodiversity to support important processes of the natural environment

- **Genetic diversity:** High biodiversity ensures genetic variation, which is critical for species adaptation in the future, and survival in changing environments.
- **Ecosystem stability:** Biodiverse ecosystems are more resilient and can better withstand environmental stress and disturbances, such as climate change, pollution, and natural disasters.
- **Food webs:** Biodiversity maintains balanced and functional food webs, ensuring the survival of different species and the overall health of ecosystems.
- **Habitat provision:** Diverse ecosystems provide habitats for a wide range of species, supporting complex ecological interactions and species survival.
- **Intrinsic value:** Indigenous species, ecosystems and the natural environment have intrinsic value. This intrinsic value is independent of their utility to humans (RMA s2).

Global context: Concerns about the loss of biodiversity

A report on the UN Convention on Biological Diversity highlights the need for urgent and concerted human action to protect biodiversity:³

- Protecting biodiversity is in the self-interest of humans.
- The biodiversity we see today is the fruit of billions of years of evolution.
- The natural environment provides the basic conditions for life on earth. Humanity could not survive without it.
- As a species we are degrading, and in some cases destroying, the ability of biological diversity to continue performing essential ecosystem services that humans need.

³ UN Convention on Biological Diversity, <https://www.cbd.int/doc/publications/cbd-sustain-en.pdf>

- Biological diversity is a resource upon which families, communities, nations and future generations depend.
- Despite the importance of biodiversity, our heedless actions are eroding this resource at a perilous rate.
- A major cause of this erosion is that individuals, communities and nations take the resource for granted. There is an assumption that living resources and biological diversity are limitless.

The US agency for international development notes that:⁴

‘Biodiversity is fundamental to human well-being. The health of our planet’s ecosystems is foundational to human health, security, and the global economy. Yet, an estimated one million plant and animal species face extinction as habitat loss and over-exploitation threaten the viability and resilience of vital... ecosystems.’

Protecting biodiversity is not only a global imperative but also a local responsibility.

Loss of biodiversity in Aotearoa

There has been a very substantial loss of biodiversity in Aotearoa since humans arrived:⁵

- About 50 indigenous bird species have become extinct in Aotearoa as a result of human activities.⁶
- Large areas of native vegetation and 90% of wetlands have been lost.⁷
- Predators pose a daily threat to native trees, birds, reptiles and other species.⁸
- A very large number of indigenous species are currently classed as *threatened* or *at risk* under the NZ Threat Classification System⁹ - about 74% of terrestrial bird species (78 of 105 species), and 94% reptile species (116 of 124 species).¹⁰
- Populations of some species are at very low levels. The population of matuku/bittern, for example, is less than 1,000, and weweia/dabchick only about 2,000.¹¹

A report by the Parliamentary Commissioner for the Environment notes that concerted action is required to prevent further loss and deterioration of indigenous biodiversity, as indicated in diverse technical and policy reports.¹²

Loss of biodiversity in Northland

The Northland region has undergone dramatic changes.¹³ Land clearance, land modification and the introduction of exotic species have resulted in widespread losses of indigenous habitat. A report by

⁴ US agency for international development (2023) report to Congress 2022, <https://www.usaid.gov/reports/biodiversity-conservation-and-forestry/fy-2022>

⁵ DOC <https://www.doc.govt.nz/nature/biodiversity/aotearoa-new-zealand-biodiversity-strategy/>

⁶ Parliamentary Commissioner for the Environment (2017) *Taonga of an Island Nation: Saving New Zealand’s Birds*, p.20, <https://www.pce.parliament.nz/publications/taonga-of-an-island-nation-saving-new-zealands-birds>

⁷ MfE <https://environment.govt.nz/publications/the-state-of-new-zealand-environment-1997/chapter-eight-the-state-of-our-land/pressures-on-the-land/> Manaaki Whenua / Landcare Research <https://www.landcareresearch.co.nz/publications/wetland-restoration/>

⁸ MfE <https://environment.govt.nz/facts-and-science/biodiversity/how-pests-affect-our-biodiversity/>

⁹ NZ Threat Classification System, <https://nzctcs.org.nz/>

¹⁰ Stats NZ: <https://www.stats.govt.nz/indicators/extinction-threat-to-indigenous-land-species>; www.nzctcs.org.nz; and <https://pce.parliament.nz/media/4s5hdovn/taonga-of-an-island-nation-web-final-small.pdf>

¹¹ <https://www.beehive.govt.nz/release/double-means-dip-bittern-population>; www.nzctcs.org.nz

¹² Parliamentary Commissioner for the Environment (2017) *Taonga of an Island Nation*.

¹³ NZ Landcare Trust, 2007, above, p.7.

Landcare Trust (for Northland Regional Council) estimated the following loss of indigenous habitat in Northland:¹⁴

- 99% loss of podocarp forest
- 96% loss of kauri and volcanic broadleaf forests
- 95% loss of freshwater wetlands and dune forests.

Table 1 (below) lists very large numbers of threatened species in Northland. Many bird species, for example, are chronically threatened in Northland.¹⁵

A report on biodiversity in Northland notes that –

‘A central element to consider in the identity of Northland region is the amount of biodiversity in Northland relative to the rest of New Zealand. About 24% of New Zealand’s threatened plant and animal species [are or were present] in Northland, a disproportionately high amount given the area of our region. Around one-third of threatened plants in Northland occur on the coast which is the main focus of subdivision in Northland.’¹⁶

Table 1. Threatened species in Northland (2002) ¹⁷

Number of taxa (species and sub species combined)		Northland Locally extinct	Northland Present
Plants	Nationally Critical	3	28
	Nationally Endangered	0	22
	Nationally Vulnerable	0	3
	Serious Decline	1	11
	Gradual Decline	2	20
	Sparse	0	32
	Range Restricted	0	69
Terrestrial Animals	Nationally Critical	4	36
	Nationally Endangered	5	31
	Nationally Vulnerable	1	3
	Serious Decline	0	7
	Gradual Decline	1	19
	Sparse	0	31
	Range Restricted	1	154

¹⁴ NZ Landcare Trust, 2007, above, p.7.

¹⁵ NZ Landcare Trust (2007) Towards a Strategic Direction for Biodiversity Enhancement, report for NRC and DOC, <https://www.nrc.govt.nz/media/sofiojxl/whole-of-northland-project-complete.pdf>.

¹⁶ NZ Landcare Trust, 2007, above, p.17.

¹⁷ Hillsborough 2002 cited in NZ Landcare Trust (2007), above, p.6.

PROVISIONS ON ECOSYSTEMS & INDIGENOUS BIODIVERSITY

RMA provisions not fully included in IB provisions

As stated in our submissions: We consider that the PDP chapter does not yet give full and proper effect to the RMA, RPS and other relevant provisions.

As noted above, IB Objectives and Policies do not cover the full range of ecological matters specified in the RMA (Box 1 above).

- ‘safeguarding the life-supporting capacity of **ecosystems**’ (RMA s5 Purpose)
- paying particular regard to **intrinsic values** of ecosystems (obligation, RMA s7(d))
- Matters that ‘*must*’ be addressed by assessments of environmental effects: *any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity*’ (RMA Schedule 4 clause 7(c))

Our groups seek the following –

- ❖ IB chapter provisions should be amended to cover the full range of ecological matters specified in the RMA (Box 1 above), RPS, applicable parts of the NPS-IB, and other relevant documents.

Regional Policy Statement for Northland (RPS)

Under RMA s75, the district plan is required to give effect to the Regional Policy Statement, and must avoid inconsistency with the Regional Plan. The DP can be more stringent than the RPS, but cannot be more relaxed. The RPS and its Appendix 5 contains a number of provisions that refer to ecosystems, species and biodiversity.

However, key RPS provisions have not yet been fully implemented in the PDP. The notified version of IB-P1 referred specifically to the ecological significance criteria in RPS Appendix 5. However the s42 report recommends deleting it.

We seek -

- ❖ **Overview text:** We support s42 amendment to specifically refer to Appendix 5 in the in chapter *Overview*: ‘ecological assessments in accordance with the significance criteria in Appendix 5 of RPS’.
- ❖ **IB Policies:** We strongly oppose deletion of RPS Appendix 5 from IB Policy – Appendix 5 provides provisions that the PDP must give effect to. Appendix 5 covers similar elements to the NPS-IB but was drafted in a manner that is more specific and suitable to this region. Regional criteria are tailored to regional conditions.
- ❖ **IB Policies:** should specifically state that ‘ecological assessments in accordance with the criteria in Appendix 5 of RPS’.
- ❖ **Definitions:** The revised PDP definition of significant natural areas should include RPS Appendix 5.

In our experience, assessments of environmental effects by developers often do not pay due attention to Appendix 5.

- ❖ We recommend that the RPS Appendix 5 should be reproduced as an Appendix to the PDP, to ensure that it is noticed and properly considered in AEEs for consent applications.

Cumulative effects and potential long-term effects

RPS Policy 5.1.1 refers to potential cumulative effects and potential long-term effects -

*Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which... Recognises and addresses **potential cumulative effects** of subdivision, use, and development, and is based on sufficient information to allow assessment of the **potential long-term effects**.¹⁸*

Moreover, when considering the effects of a proposed activity, s3 of the RMA states that the term *effect* includes ... **any cumulative effect** which arises over time or in combination with other effects...

In our experience, cumulative effects are not considered to any extent when making decisions on consent applications or when setting provisions and limits in plans. Therefore PDP needs to make specific reference to cumulative effects. We seek -

- ❖ As stated in our submissions, all relevant chapters of the PDP should specifically recognise the need to identify and address *any cumulative effect* and *potential cumulative effects*, and require sufficient information to assess *potential long-term effects* of the proposed activity on the environment.
- ❖ The PDP needs to include text about *potential cumulative effects* and *potential long-term effects* on the environment in all of the Hearing 4 PDP chapters.

National Policy Statement on Indigenous Biodiversity

The NPS-IB contains a number of policies which do not specifically address SNAs.

NPS-IB Subpart 3 (3.21) includes a requirement for local authorities to “include objectives, policies and methods their ... plans to promote the **restoration** of indigenous biodiversity, including through reconstruction of areas.”

When considering activities “in **areas prioritised for restoration**, local authorities must consider requiring conditions for restoration or enhancement on resource consents that are new or being reviewed, and (b) recommending conditions on any new designations.”

- ❖ We seek provisions such as these to be added in the PDP ‘as soon as reasonably practicable’.

Schedule to record ecological sites protected by consent process

As noted in our submission, a number of existing titles have specific areas of indigenous vegetation that have already been protected by covenants through the council’s resource consenting process.

We seek -

- ❖ The areas of vegetation and ecological features that have already been protected through the consent process should be recorded in Schedule 4. The postponement of SNA mapping does not mean that existing protected sites should be omitted from a Schedule list (s448.001).
- ❖ All new areas that are protected via the consenting process in future should also be recorded in a Schedule list promptly (s448.001).

¹⁸ NRC (2016) *Regional Policy Statement for Northland*, updated May 2018, <https://www.nrc.govt.nz/resource-library-summary/plans-and-policies/regional-policy-statement/>

- ❖ Protected sites should also be visible in a special overlay on maps, and their protected status should be formally recognised by giving them a special type of zoning that protects the high ecological values at the site (s448.002; s448.003; s448.004).

Other specific amendments and comments

We seek –

- ❖ **IB-O2:** Replace with: ‘The extent and diversity of indigenous biodiversity across the district is maintained, protected and enhanced’. Current text ‘manage biodiversity’ is very use-oriented, fails to give effect to environmental bottom lines required by RMA (s542.011)
- ❖ **IB-new objective:** ‘The ecosystem services provided by areas of indigenous biodiversity are recognized and enhanced. These services include increased resilience to effects of climate change, maintaining freshwater quality, and enabling resilient food production systems.’ (s542.003)
- ❖ **IB-new objective after IB-O4:** ‘landowners, land occupiers and kaitiaki/stewards are encouraged and supported to protect and enhance indigenous biodiversity and intrinsic ecological values of the land they have an interest in’ (s542.002).
- ❖ **IB-P1:** We support the specific recognition of the role/responsibilities of tangata whenua as kaitiaki. In addition, we seek a statement that also recognizes the role/responsibilities of landowners and others as stewards in protecting, maintaining and restoring indigenous biodiversity etc. - to be consistent with the text of IB-O4.
- ❖ **IB-P4:** delete *‘significant’* adverse effects. Policy 3.10(3) of the National Policy Statement for Indigenous Biodiversity does not limit the use of the effects management hierarchy only to cases of ‘significant’ adverse effects.
- ❖ **IB-P10(h):** add: ‘the extent to which the variety and range of indigenous species is maintained; The extent to which ecological integrity is maintained’ ie. insert matters listed in ODP Policy 12.2.4.1 (s431.094; evidence of JA Riddell para. 65).
- ❖ **IB-P10(x):** add ‘edge effects’; add ‘the location, scale, intensity and...’ (s431.095).

RULES: CLEARANCE OF INDIGENOUS VEGETATION

As stated in our submission, proposed Rule **IB-R1** allows clearance of indigenous vegetation for a list of purposes which is too broad. For example:

IB-R1 PER-1 (7) currently allows indigenous vegetation clearance up to 1,000m² for building a residential unit, without considering whether existing clear areas can be used instead.

It also allows this activity without any regard for the RMA direction to maintain areas of *significant* indigenous vegetation or habitat.

- ❖ **IB-R1 PER-1 (7):** We seek amendment: to limit this to cases where existing clear areas cannot be used for the proposed building/construction, i.e. where feasible, to build in areas that are already free from indigenous vegetation.
- ❖ **IB-R1 PER-1 (7):** Add underlined text: ‘... not exceed 1,000m²; and there is no clearance of areas of significant indigenous vegetation or significant habitats of indigenous fauna.’ (s431.106; evidence of JA Riddell, July 2024 para. 199).
- ❖ **IB-R1 PER-1 (2) and (10):** These provisions need amendment to take account of the fact that the clearance of dead trees, or indigenous vegetation less than 10 years old, can be detrimental for *at risk* indigenous species/habitat.

Rules IB-R3 and IB-R4 allow a quantified area of indigenous vegetation to be cleared per calendar year or in 5 year period. The cumulative effect of such rules, over time, could allow significant amounts of indigenous vegetation to be eliminated over time (death by 1000 small cuts).

- ❖ The problem of death by 1000 cuts needs to be addressed.

Presence of vulnerable species in clearance areas

The clearance of any type of vegetation, including plantation forests, can cause problems in areas where vulnerable indigenous species are present, such as kiwi. Local conservation groups have found that areas of exotic or mixed vegetation are often cleared by large diggers or bulldozers without any precautions, with no regard for vulnerable indigenous species that are present or nesting on the ground or in the vegetation (eg. nesting kiwis, rare native lizards).

- ❖ The PDP needs to require procedures to be followed when exotic or any type of vegetation is cleared in areas where *threatened* or *at risk* species are present, or icon/taonga species such as kiwi. For example, landowners should be required to contact DOC or a major group such as Kiwi Coast, and agree a brief written plan to protect vulnerable species, before any vegetation clearance starts. Where appropriate, clearance should be staggered over time, so that indigenous species are able to move to shelter.

An appendix to the PDP could include, or refer to, a protocol that sets out guiding principles and procedures for protecting indigenous species when any type of vegetation is cleared.

Other issues with vegetation clearance

As identified in our submission, the PDP provisions do not address some on-going practical problems with vegetation clearance, which often involves heavy machinery that crushes almost all vegetation.

Local conservation groups sometimes experience cases where landowners claim they are only or primarily clearing exotic vegetation (such as old wattle trees), even when the destruction of a significant amount of indigenous vegetation is clearly visible on the site.

- ❖ To address these problems, our submission stated that PDP Rules on clearance need to apply to vegetation that 'includes' indigenous vegetation. S42 report recommends adding 'predominantly' in IB-P2, however this does not afford sufficient protection.
- ❖ The Rules should specifically encourage or require, where possible, effective drill-and-fill methods of dealing with large exotic trees that are growing among native vegetation. This method is used successfully by DOC and others to avoid damaging native vegetation.

Operative District Plan provisions

It would be a backward step if the PDP contains weaker provisions than the existing provisions in the Operative District Plan relating to indigenous habitat, flora/fauna and biodiversity.

Examples of existing ODP provisions for the protection of indigenous vegetation, habitat and flora/fauna are reproduced in Box 2 below. The ODP includes criteria relating to –

ODP Objective 12.2.3.2 states '**To provide for the protection of, and to promote the active management of areas of significant indigenous vegetation and significant habitats of indigenous fauna.**' The ODP objective seems more proactive than PDP objective IB-O1.

ODP Policy 12.2.4.2 and Method 12.2.5.6 refer to *whether the area contains critical, endangered, vulnerable or rare taxa, or taxa of indeterminate threatened status...*

- ❖ To support species/sub-species (taxa) with indeterminate threatened status:
This ODP text should be included in the PDP. The ODP in effect has adopted a precautionary approach on this point. However, taxa with indeterminate threatened status are not mentioned in the current PDP text.
- ❖ IB-P2 and IB-P3: We support inclusion of text on 'vulnerable', such as s42 report amendment: 'species, habitats and ecosystems that are particularly vulnerable to modification'.
- ❖ PDP text should not be any weaker than the existing provisions in the Operative District Plan relating to indigenous habitat, flora/fauna and biodiversity.

Box 2. Operative District Plan provisions on significant habitat and biodiversity

The Operative District Plan (ODP) chapter 12.2, page 2 notes that *'The Act requires that areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected'*

Objective 12.2.3.2 states:

'To provide for the protection of, and to promote the active management of areas of significant indigenous vegetation and significant habitats of indigenous fauna.'

Policy 12.2.4.2 and Method 12.2.5.6 for evaluating significance:

'The significance of indigenous vegetation and habitats will be assessed by reference to the criteria in Appendix III¹ of the Northland Regional Policy Statement when processing applications for resource consent for land use or subdivision.' These criteria include:

(a) whether the area contains critical, endangered, vulnerable or rare taxa, or taxa of indeterminate threatened status...

(b) and (f) 'whether the area contains indigenous or endemic taxa that are threatened or rare in Northland' or 'contains types that are rare in the ecological district'

(e) whether the area forms an ecological buffer, linkage or corridor to other areas of significant vegetation or significant habitats of indigenous fauna;

Environmental Outcomes related to indigenous species include:

Outcome 12.2.2.1: *'Population numbers of rare and threatened species of flora and fauna are maintained or increased and their habitat enhanced'*.

Outcome 12.2.2.4: *'An increase in those areas of significant indigenous vegetation and significant habitats of indigenous fauna, which are formally protected.'*

RESTRICTIONS ON PREDATORS AND PETS

Before addressing this topic, we would like to stress that we love animals including dogs and cats and pets. However, they need to be in appropriate places and controlled appropriately to avoid causing any harm.

An academic review of national biodiversity loss has concluded that 'The main threat to native biodiversity in New Zealand is the adverse impact of alien animals, especially introduced mammals.¹⁹

¹⁹ Clout et al (2001) Biological Conservation special issue, vol 16, p.415-416, [https://www.cell.com/trends/ecology-evolution/abstract/S0169-5347\(01\)02225-X?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS016953470102225X%3Fshowall%3Dtrue](https://www.cell.com/trends/ecology-evolution/abstract/S0169-5347(01)02225-X?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS016953470102225X%3Fshowall%3Dtrue)

The Regional Policy Statement (method 4.4.3(2)(b)) requires the DP to implement 'Controls on the introduction or keeping of species with recognised pest potential' as part of its implementation of RPS Policy 4.4.1.

Operative DP Policy 12.2.4.10 currently provides for controls on domestic predators in order to protect three indigenous species: kiwi, dotterel and brown teal:

'In order to protect areas of significant indigenous fauna:

(a) that dogs (excluding working dogs), cats, possums, rats, mustelids and other pest species are not introduced into areas with populations of kiwi, dotterel and brown teal;...'

- ❖ We strongly oppose submissions that seek to remove restrictions on pets from the PDP, because this would cause large negative impacts on vulnerable species such as kiwi, other ground-nesting birds, wetland birds etc. (i.e. indigenous biodiversity).

We seek -

- ❖ The current ODP restrictions on predators and pets should be retained in the PDP, with the specific aim of protecting indigenous species (particularly *at risk* or *threatened* species) that are vulnerable to predation.
- ❖ **IB-P7** needs to be strengthened to state that detailed management plans for predators and pests will generally be a required component of consent conditions.

Dogs and kiwi in Northland

The Department of Conservation's 'Strategic Plan for Northland Brown Kiwi, 2010-2019 And Beyond' states that:

'Dogs are currently the single biggest threat facing Northland kiwi, surpassing even the impact of unmanaged stoat populations (Miller & Pierce 1995; Hugh Robertson, unpubl. data). Dogs can cause massive and rapid localised reductions in kiwi populations, and are able to kill kiwi at all life stages. Their being able to kill adults is of particular concern, as the loss of adults greatly reduces population recruitment. At present, it is domestic (pet, farm or hunting) dogs that are responsible for kiwi deaths.'

All dogs are a threat to kiwi, regardless of breed, temperament, and training.^{20'}

The Department of Conservation's *Strategic Plan* makes an important conclusion:

'The most effective way of preventing a dog from attacking a kiwi is to ensure it never comes into contact with kiwi, and the easiest way to achieve this is to keep dogs out of kiwi habitat at all times.'^{21'}

Kiwis should live about 40-65 years, but in Northland many die young, particularly due to dog predation, so their average lifespan is only about 14 years.²² Each time a kiwi is killed, we also lose all of the chicks it would have reared during the rest of its lifespan.

We agree with BOI Watchdogs that dogs are not the only source of kiwi deaths. Vehicle strike is also a significant cause of kiwi death. DOC has pointed out that kiwi bodies killed on roads are more likely to be seen and reported to DOC. However, when dogs kill birds in undergrowth or bush the kiwi bodies are generally not seen, and not reported. As a result, the total number of kiwi deaths due to dogs is under-reported.

²⁰ DOC (2011) *Taxon plan for Northland brown kiwi: Strategic plan for Northland brown kiwi, 2010-2019 and beyond.*

²¹ DOC (2011) *Taxon plan for Northland brown kiwi*, p.13.

²² DOC (2011) *Taxon plan for Northland brown kiwi*, p.6.

A statement by Kiwi Coast (Annex E) reports that about 259 community groups and organisations are currently engaged in kiwi protection work in Northland – refer to Attachment B. Thousands of volunteer hours have gone into protecting kiwi from all types of predators in recent decades. As a result of current restrictions and this huge volunteer effort, the status of brown kiwi has changed from ‘at risk’ to ‘conservation dependent’. The work to protect kiwi has also protected many other vulnerable species in those areas.

However, kiwi numbers continue to decline in areas where predators are not actively managed/controlled.

If the current DP restrictions on dogs are deleted, the situation for kiwi will move backwards, kiwi numbers will decline again.

- RMA s31(1)(b)(iii) states that ‘the maintenance of indigenous biological diversity’ is a function of every territorial authority for the purpose of giving effect to the RMA.

Dogs and other vulnerable birds (eg. ground-dwelling & wetland birds)

Dogs can harm or kill a range of native bird species that feed, breed or dwell on the ground, such as matuku/bittern, mioweka/banded rail, spotless crane, and pāteke/brown teal. DOC has pointed out that ‘*some of the most vulnerable wildlife in Northland are the small populations of flightless, ground-feeding and nesting birds within*’ shrublands and wetlands.²³

Moreover, research has shown that the presence of dogs can **disturb** the feeding and nesting of brown teal, bittern, crane, mioweka/banded rail and other vulnerable species. Studies have found that the presence of a dog causes stress and/or distress to ground dwelling birds and ground nesting birds, and often causes them to move away, interrupt their feeding, or leave their nests (Cockrem, 2018). National and international studies have demonstrated that this type of disturbance reduces the breeding success of such birds, and therefore reduces their number/population. Reductions in populations are particularly worrying for bird species that already have low populations, such as bittern or dabchick.

Northland’s ground-dwelling birds and wetland birds play critical roles in their ecosystems. These birds are often unique to Aotearoa and are indicators of ecosystem health. Protecting these species appropriately is important for the continuation of ecological processes, and help maintain this district’s rich natural heritage.

Human injuries due to dogs

‘BOI Watchdogs’ documents focusses on beneficial/positive aspects for dog owners. It is important to remember that dogs can also have significant negative impacts on human wellbeing.

The Far North district has a serious problem with poorly controlled dogs, including individual roaming dogs and packs of roaming dogs. There are continuing cases of serious maltreatment of dogs. The Council’s Animal Management team is making efforts to improve the situation but faces an uphill struggle.

In the past two years, two people in this District were tragically mauled to death by dogs.

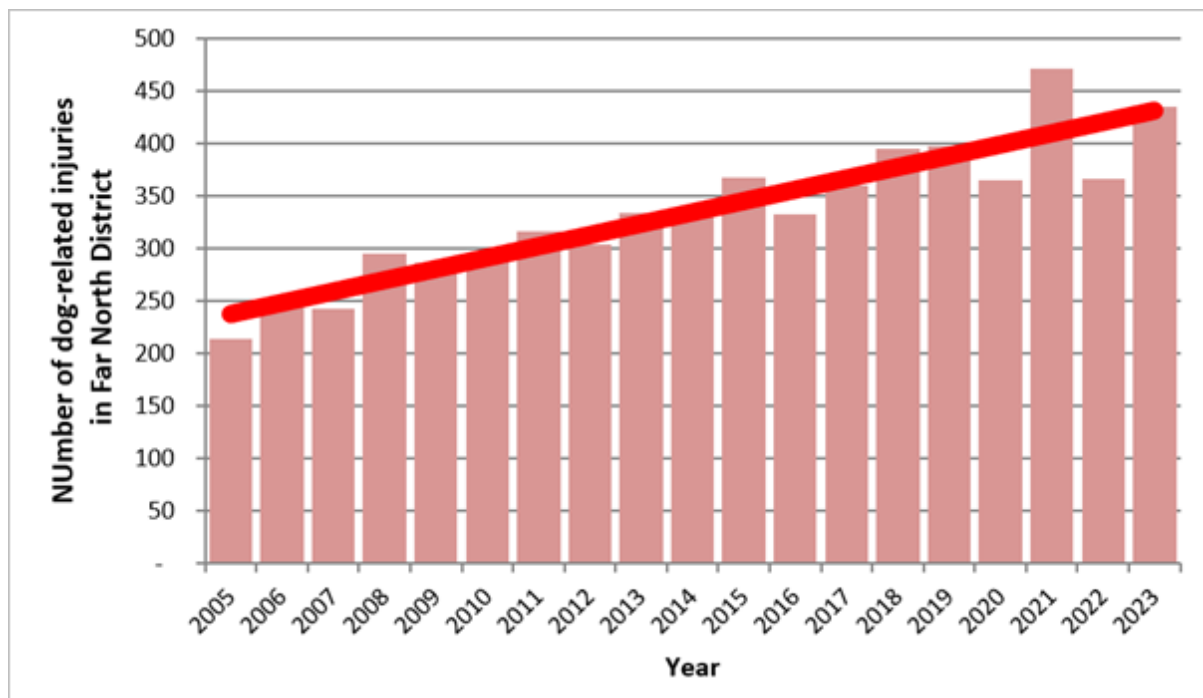
ACC data²⁴ also shows there is a significant problem with dog-related injuries to people in the Far North district -

²³ DOC, <https://www.doc.govt.nz/parks-and-recreation/know-before-you-go/dog-access/where-can-i-take-my-dog/northland-dog-access/>

²⁴ ACC data on dog-related injuries published by Dept of Internal Affairs. [https://www.dia.govt.nz/diawebsite.nsf/Files/Dog-control-statistics/\\$file/dog-control-statistics-2023.xlsx](https://www.dia.govt.nz/diawebsite.nsf/Files/Dog-control-statistics/$file/dog-control-statistics-2023.xlsx)

- Graph of ACC data²⁵ below shows an overall increase in dog-related injuries since 2005.
- The number of injuries rose from 214 cases in 2005 to about 435 in 2023.
- The number of injuries increased by about 30% in the past 10 years.
- ACC data show the Far North has a significantly higher rate of dog-related injuries than the national average.²⁶

ACC data: Number of dog-related injuries to people in Far North District, per year, 2005 - 2023



Roaming and poorly controlled dogs also have negative impacts when they harass or kill farm stock and other dogs or pets. These problems have negative impacts on the economic wellbeing of farmers and the rest of the community. Vets are aware of cases where stock and pets are harmed, however, data on the number of cases does not seem to be available.

Eliminating the DP restrictions on dogs would exacerbate all of these problems.

Cats and native fauna

Studies have found that cats can be predators of kiwi chicks, chicks of wetland birds (e.g. pāteke), other native birds, native reptiles, and others.²⁷ The potential for domestic cats to have adverse effects is greatest when they live within foraging distance of habitats where native species are present.²⁸

²⁵ ACC data on dog-related injuries published by Dept of Internal Affairs, as above.

²⁶ ACC data on dog-related injuries published by Dept of Internal Affairs, as above.

²⁷ Gilles and Clout (2003). The number of native animals predated by cats varies greatly by age, location etc. Studies of prey brought home by cats show only one part of the picture. A US study using cameras found that only 23% of prey was taken home, 49% was left where it was caught, and 28% of prey was eaten. Although cats do kill rodents, they are not needed for rodent control. Rodents can often be controlled more effectively by trapping/baits.

²⁸ Gillies & Clout (2003) Prey of domestic cats in two suburbs of Auckland City, *J. Zool.* 259, 309-315, p.309.

Based on GPS tracking of domestic cats, Metsers (2010) examined the size of cat-exclusion zones needed to be effective in rural and urban fringes near sites of vulnerable native species.²⁹ The study concluded that, to be effective, cat exclusion zones would need to be at least 1.2 km wide in urban-fringe areas and at least 2.4 km wide in rural areas.²⁹

Night curfews have been suggested as another way to reduce predation by domestic cats. However that approach has only limited effectiveness, because a substantial amount of predation occurs during the daytime (e.g. study in Canberra found 70% of birds and 90% of reptiles caught by domestic cats were caught during the day).

Finally, we'd like to reiterate that we love dogs, cats and other animals. However, they need to be in appropriate places and controlled appropriately to avoid causing harm to wildlife, other dogs or humans.

PDP CHAPTER ON NATURAL CHARACTER

RMA (s6) matters of national importance include –

‘the preservation of the natural character of the coastal environment... wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development’

The regional council is responsible for waterbodies themselves, while the district plan ‘manages their margins and the activities that can occur in these areas’ (PDP Natural character chapter Overview). The PDP Natural Character chapter ‘seeks to manage these activities to ensure that the characteristics and qualities that contribute to the natural character values are preserved’.

We support the PDP objective NATC-O1, however overall, the PDP provisions will not preserve the natural character of waterways and wetlands.

For example, NATC-R3 PER-2 & NATC-S2 allow an excessive amount of earthworks and indigenous vegetation clearance up to 400m² within the margins of wetlands, lakes and rivers. This provision does not align with RMA s6 nor with NPS-Freshwater provisions.

The PDP defines the margins of wetlands, lakes and rivers as 20 - 30m, depending on the zone. The definition should be based on 30m, especially in the industrial and residential zones where greater protection is needed.

A note under NATS-S2 states: **Note:** *The NESF requires a 10m setback from any natural wetland in respect of earthworks or vegetation clearance and may require consent from the Regional Council.*

However, this statement is incomplete and therefore misleading – it refers only to a 10m setback distance, when in fact the NES-F provisions also cover some activities within 100m of a natural wetland that require consent from the regional council. The Note should be amended to provide the correct information.

PDP CHAPTER ON COASTAL ENVIRONMENT

The PDP Coastal environment chapter acknowledges that:

²⁹ Metsers (2010) Cat-exclusion zones in rural and urban-fringe landscapes, *Wildlife Research*, 37, pp.47-56. GPS tracking identified a high variability in the distance that cats move from their homes: 0.7 - 1.2km in urban-fringes and 1.3- 2.3km in rural sites in New Zealand. The study noted that, due to the large variability between individual cats, exclusion zones must be at least the upper distance, to be effective.

‘Council has a responsibility under the RMA, the NZCPS and the RPS to preserve and protect the natural character of the coastal environment from inappropriate land use and subdivision.’

RMA s6(a) requires all persons exercising powers and functions under the Act “*to recognise and provide for the preservation of the natural character of the coastal environment, wetlands, rivers and lakes and their margins and their protection from inappropriate subdivision, use and development*”.

NZ Coastal Policy Statement (NZCPS) contains key objectives/policies for environmental protection, such as Objective 1: *To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems.*

NZCPS policies include the following:

- Avoid adverse effects of activities on indigenous taxa that are listed as threatened or at risk in NZ Threat Classification System lists, and indigenous ecosystems and vegetation types that are threatened in the coastal environment or are naturally rare, and other significant indigenous community types.
- Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on areas of predominantly indigenous vegetation in the coastal environment, as well as vulnerable habitats, habitats that are important for different purposes, migratory species and ecological corridors.
- Preserve the natural character of the coastal environment, which may include protecting areas of indigenous biodiversity that contribute to natural character.

Lack of ‘coastal’ protection for large areas of coastal land

As a result of changes in NRC mapping, the PDP map now regards only a narrow band of coastal land as ‘Coastal environment’. The Operative DP includes much larger areas of coastal land in the ‘Coastal environment’.

Much of the coastal land in the ODP has been re-zoned as Rural Production or other zone in the PDP. This change greatly reduces the area of coastal land that can be protected by NZCPS coastal provisions/rules. As a result, large areas of coastal land that are visible from the marine area will have little or no protection for their visual qualities, character or other coastal values. This needs to be rectified.

Earthworks and indigenous vegetation clearance in coastal environment

PDP standard CE-S3 proposed an excessive area of permitted earthworks (up to 400m² in 10 years) in areas outside high or outstanding natural character areas. The S42 report makes the situation worse – it recommends increasing the earthworks to ‘4100m² within a calendar year’.

ANNEX A. RMA and ecosystems – relevant Environment Court decision

The s32 report highlighted a relevant Environment Court decision relating to Part 2 of the RMA which concluded that if an ecosystem is found to be significant then that ecosystem is to be protected.

Details are provided in Box below.

The Environment Court has attempted to explain (in summary) the scheme of Part 2 of the RMA with respect to indigenous biodiversity in *Director General of Conservation v Invercargill City Council*³. Some key extracts from that decision are provided below (emphasis added).

[44] In part 2 of the RMA there are three provisions that are particularly important and relevant to biodiversity issues. They are the obligations: "*safeguard ... the life-supporting capacity of ... ecosystems*" (section 5(2)(b) RMA); "*... protect ... areas of significant indigenous vegetation and significant habitats of indigenous fauna*" (section 6(c)); and "...to have particular regard to the "*intrinsic values of ecosystems*" (section 7(d) recalling that is a defined term).

[45] Five points should be made here about the scheme of the RMA in relation to indigenous biodiversity. First, the primary responsibility of local authorities when exercising their functions in respect of indigenous biodiversity is part of the very definition of "sustainable management": to safeguard the life-supporting capacity of ecosystems.

[46] Second, **the recognition and protection of areas of significant indigenous vegetation, nationally important as it is, is an extension of that primary obligation. If an ecosystem or part of an ecosystem (being in either case an area of indigenous vegetation or a habitat of indigenous fauna) is found to be significant then that ecosystem is to be protected in itself, not merely to have its life-supporting capacity protected.**

[47] Third, safeguarding (or protecting) the life-supporting capacity of ecosystems includes in each case having particular regard to each of its components including – as the definition of "intrinsic values" 6 implies.

ANNEX B. Examples of kiwi killed by dogs in Northland, 2015-2023

Table based on DOC data and further details reported by NZ Herald, Kiwi Coast and other organisations.

The reported data on kiwi deaths do not include all cases of kiwi deaths due to dog attacks.

DOC notes that a number of kiwi deaths (in bush or undergrowth) are never discovered and not reported

Date	Number of kiwi killed by dogs	Location	Source
2015	8	Wharau Rd, Kerikeri	https://www.nzherald.co.nz/northern-advocate/news/bay-of-islands-kiwi-deaths-investigated-after-suspected-dog-attacks/X7BCOT4VDVECXEANT6SITV3C7M/
Feb 2015	5	Tapuaetahi Beach, Puruerua Peninsula	https://www.nzherald.co.nz/northern-advocate/news/five-more-kiwi-killed-in-northland-after-suspected-dog-attack/5OZ2L6JZ7GUS7PBYSHDYVG2NXM/?ref=readmore
Oct 2016	8	Hihi-Taemaro	https://www.nzherald.co.nz/nz/a-joint-effort-to-save-kiwi-from-dogs/4PSQA4QNYTZI6HJNGYQJG6FG7E/
Feb 2018	5	Hansen Rd, Puruerua	https://www.nzherald.co.nz/northern-advocate/news/bay-of-islands-kiwi-deaths-investigated-after-suspected-dog-attacks/X7BCOT4VDVECXEANT6SITV3C7M/
April 2019	2	Opito Bay, Kerikeri Peninsula	Kerikeri Peninsula Conservation Charitable Trust
Jun 2020	5	Signal Rd, Ōkaihau	https://www.nzherald.co.nz/northern-advocate/news/five-more-kiwi-killed-in-northland-after-suspected-dog-attack/5OZ2L6JZ7GUS7PBYSHDYVG2NXM/?ref=readmore
Jul 2019	6	Puruerua Peninsula	https://www.nzherald.co.nz/northern-advocate/news/five-more-kiwi-killed-in-northland-after-suspected-dog-attack/5OZ2L6JZ7GUS7PBYSHDYVG2NXM/?ref=readmore
Feb 2021	1	Kerikeri	https://www.nzherald.co.nz/nz/dog-attacks-northland-kiwi-sparking-warning-from-bird-rescuer/HK2HHPFIV4BN7VWJQU37ETM7IM/#google_vignette
2022	3	Bay of Islands	https://www.nzherald.co.nz/northern-advocate/news/northland-kiwi-deaths-caused-by-dogs-prompts-nationwide-campaign/G23KN6RYPFGEJN6K2ZNU7BGVL4/
Jan - August 2023	12	Bay of Islands	https://www.nzherald.co.nz/northern-advocate/news/northland-kiwi-deaths-caused-by-dogs-prompts-nationwide-campaign/G23KN6RYPFGEJN6K2ZNU7BGVL4/
Jan - August 2023	4	Kaitaia	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Jan - August 2023	4	Puruerua Peninsula	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Jan - August 2023	1	Haruru Falls	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/

Jan - August 2023	7	Opuia	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Jan - August 2023	1	Tahere	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Jan - August 2023	3	Whangarei Heads	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Aug 2023	1	Hikuangi	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Aug 2023	1	Tutukaka	https://kiwicoast.org.nz/31-kiwi-killed-in-northland-over-last-six-months/
Total	At least 77		

Further information:

<https://www.doc.govt.nz/globalassets/documents/about-doc/oia/2023/august/oia-3291-attachment-1.pdf>

<https://www.rnz.co.nz/news/national/498314/sharp-increase-in-number-of-kiwi-killed-by-dogs-in-bay-of-islands-data-shows>

<https://www.rnz.co.nz/news/national/498314/sharp-increase-in-number-of-kiwi-killed-by-dogs-in-bay-of-islands-data-shows>

ANNEX C. Examples of kiwi killed by roaming or poorly controlled dogs



Photo 1: Kiwi killed by dog, found on Long Beach, Russell, June 2018. Autopsy report by Massey University confirmed that the bird's injuries were consistent with dog attack.³⁰



Photo 2: These kiwi were killed by dogs in Wharau Road area near Kerikeri.³¹



Photo 3: Kiwi killed by a dog in area clearly signposted as kiwi area where dogs must be kept on a lead. The newspaper article commented that 'some owners appear to be ignorant... or defiant'.³²

³⁰ DOC <https://www.doc.govt.nz/news/media-releases/2018/kiwi-killed-by-dog-on-popular-dog-walking-beach/> and https://www.nzherald.co.nz/the-country/news/article.cfm?c_id=16&objectid=12083435

³¹ Photo source <https://www.stuff.co.nz/national/70133537/Dog-attacks-kill-7-kiwi-in-Kerikeri>

³² Photo source: <http://tracybrighten.com/environment/dogs-put-down-after-kiwi-killing-spree/>



Photo 4: Kiwi chick was killed by being picked up in a pet dog's mouth, 2022.³³



Photo 5: These kiwi were killed by one dog in a short period of time.³⁴

³³ One News <https://www.1news.co.nz/2023/08/16/northland-man-convicted-dog-put-down-after-kiwi-chicks-death/>

³⁴ DOC <https://www.doc.govt.nz/news/media-releases/2011/dont-let-your-dog-be-a-kiwi-killer/>