

BEFORE THE HEARING PANEL

IN THE MATTER OF

The Proposed Far North District Plan

Hearing 16: Subdivision

LEGAL SUBMISSIONS ON BEHALF OF FOREST & BIRD

Dated: 28 October 2025

**Royal Forest and Bird Protection Society of New Zealand
Incorporated**

Solicitor: Tim Williams

t.williams@forestandbird.org.nz / 027 3018975



MAY IT PLEASE THE PANEL

Introduction

1. The Royal Forest and Bird Protection Society of New Zealand Inc. (**Forest & Bird**) made submissions (submitter number S511) and further submissions (further submitter number FS346) on the Proposed District Plan.
2. Forest & Bird's original submissions supported notified Rule SUB-R17 (to implement notified Policy SUB-P8) in part. We consider that RMA s 6(c), Part 2 more generally, and the Northland Regional Policy Statement (OBJ 3.4, POL 4.4, POL 4.7) require areas of significant indigenous vegetation and significant habitats of indigenous fauna ("**Significant Areas**") to be protected from adverse effects of subdivision, regardless of whether or not they have already been assessed and identified.
3. When the PDP was initially drafted the intention was to include a schedule of identified and mapped SNAs. When redrafting to reflect the absence of a schedule, it is important to ensure that Significant Areas are still protected. Subdivision is important because it involves a change or intensification of land-use. This provides an opportunity to assess whether there are significant values and to protect them as part of this process. Attempting to protect after subdivision becomes much more difficult. The time to assess and protect SNAs is at the time of subdivision.
4. Subdivision can have significant adverse effects on Significant Areas. Subdivision creates fragmentation, creating manmade boundaries, and residential activity results in other effects such as domestic animals and pests.
5. Our submission observed that, in the absence of an SNA schedule, a rule that only protects scheduled SNAs would be ineffective. We therefore submitted that Rule SUB-R17 (subdivision of a site containing a scheduled

SNA – discretionary activity status) should apply to all Significant Areas (i.e. all areas meeting the RPS criteria), not just scheduled SNAs.

6. In his s 42A report, the Council officer has recommended deleting Rule SUB-R17. This change would mean that the PDP would rely on Policy SUB-P8 in the Rural Production Zone (**RPZ**) and Policy SUB-P9 in the Rural Lifestyle Zone (**RLZ**), together with associated rules, to protect SNAs. However, there are problems with this approach which mean that it will not achieve protection of Significant Areas – these problems are explained below.

Problems with recommended version of Policy SUB-P8 (subdivision in RPZ)

7. Policy SUB-P8 provides for three *alternatives* (it uses the conjunctive “or”) which would enable subdivision in the RPZ. The use of the word “or” means that only one of these three alternatives needs to apply.
 - a. The first alternative is that the subdivision would protect SNAs as required in Rule SUB-R6 – i.e. where the application is for an “environmental benefit subdivision”
 - b. The second alternative is that the subdivision would achieve the environmental outcomes required in Rule SUB-R7.
 - c. The third alternative is that the application is made under Rule SUB-R3 – i.e. where the subdivision is around an existing residential unit.
8. All these rules allow for more subdivision than would normally be allowed in the zone. We know that there are Significant Areas (unscheduled SNAs) in these zones.
9. The problem with this approach is that, to result in protection of Significant Areas, each of the above alternatives (a – c) must be able **independently** to protect Significant Areas (because they are presented as alternatives). However, this is not achieved.

10. There is no requirement in **Rule SUB-R6** to avoid adverse effects on existing (yet to be identified) Significant Area, for example adverse effects caused by fragmentation. This would mean that an applicant could fragment a Significant Area as part of an “environmental benefit subdivision”.
11. Fragmentation may have implications under rules in the ECO chapter which allow vegetation clearance for boundary fencing, for example, or simply maximum areas of indigenous vegetation clearance within a single title. A related problem is that Rule SUB-R6 also does not require buffering around SNAs.
12. More fundamentally, Rule SUB-R6 does not appear to recognise the fact that a Significant Area is an existing state of the environment – the Significant Area does not only come into existence at the point that it is assessed, described and legally protected by the applicant. The Council has a statutory duty to protect Significant Areas in their current state.
13. **Rule SUB-R7** applies to applications for subdivision consent in the RPZ or RLZ that are accompanied by a subdivision management plan which complies with APP3 – Subdivision management plan criteria.
14. These criteria require a description of existing site characteristics, including areas of indigenous vegetation and habitats of indigenous fauna, and any notable or heritage trees. However, they do not require an assessment against the RPS significance criteria.
15. Proposed management measures must include “measures to protect, manage and enhance indigenous vegetation and habitats”, but again there are no specific requirements relating to the protection of Significant Areas.
16. The criteria are limited to the provision of information and, although subdivision under SUB-R7 would be a discretionary activity, there are no proposed policies that would direct the decision-maker to protect Significant Areas against adverse effects caused by the subdivision itself.

17. This rule could result in more large-scale residential subdivision, bringing further risks (in addition to fragmentation) of introducing problem pests and domestic animals that predate native fauna. This could be a particular issue where there is kiwi habitat, for example.
18. **Rule SUB-R3** allows subdivision around an existing allotment. Again, this rule does not protect or buffer SNAs or prevent fragmentation. As noted above, dividing SNAs into separate legal titles is likely to have adverse effects. These adverse effects would not be appropriately managed by SUB-R3.

Problems with SUB-P9 (subdivision in RLZ)

19. Policy SUB-P9 also refers to SUB-R7, which in turn refers to APP3 – Subdivision management plan criteria. Policy SUB-P9 therefore encounters the same problems described above in terms of protecting SNAs. In simple terms, although SUB-P9 refers to “the environmental outcomes required in SUB-R7”, there do not appear to be any environmental outcomes required by SUB-R7 – there are only information requirements, and even these do not require an assessment against the RPS significance criteria.
20. The above problems are exacerbated by the recommended deletion of SUB-P4, which would have expressly directed management of subdivision in accordance with ECO chapter

Conclusions

21. The recommended changes to the subdivision chapter would not enable the Council to meet its statutory obligation under RMA s 6(c), Part 2 and the Northland RPS.
22. To address this problem, a version of SUB-R17 should be reinstated, to require an SNA assessment in cases where land being subdivided may include a Significant Area, and to require SNAs to be protected if they are identified.

23. Council can use the information it already holds to determine whether an area is likely to be a Significant Area. If so, there should be an ecological assessment as part of the subdivision application. An appropriate trigger can be used to shift activity status where appropriate to enable this assessment. Applicants can work with the council to determine how much information is needed.



Tim Williams

Counsel for Forest & Bird