



**CENTRAL  
HAWKE'S BAY**  
DISTRICT COUNCIL

## **REPORT OF HEARING PANEL**

### **Independent Hearing Commissioners:**

Robert Schofield (Chair)  
Loretta Lovell  
Roger Maaka  
Tim Aitken  
Kate Taylor  
Pip Burne

## **TOPIC 1B**

### **Ecosystems & Indigenous Biodiversity**

**REPORT DATED:**

**14 April 2023**

**DATE OF HEARING:**

**14 to 15 March 2022**

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## List of Submitters and Further Submitters addressed in this Report

Submitter Name	Submitter Number
Centralines Limited (Centralines)	S90
Chorus New Zealand Limited (Chorus)	S117
Claire Murphy	S63
Department of Conservation (DOC)	S64
Duncan Smith	S24
Ernslaw One Limited (Ernslaw)	S132
Federated Farmers of New Zealand (Federated Farmers)	S121
Fire and Emergency New Zealand (FENZ)	S57
Gerard Pain	S28
Hawke's Bay District Health Board (HBDHB)	S126
Hawke's Bay Regional Council (HBRC)	S11
Heretaunga Tamatea Settlement Trust (HTST)	S120
Horticulture New Zealand (Hort NZ)	S81
James Bridge	S105
Karl Tipene	S59
Kathryn Bayliss	S39
Kāinga Ora - Homes and Communities (Kāinga Ora)	S129
New Zealand Pork Industry Board (Pork Industry Board)	S42
Ngā hapū me ngā marae o Tamatea (NHMT)	S125
Ngāti Kere Hapū Authority	S134
Patricia Oldfield	S91
Rayonier Matariki Forests (Rayonier)	S85
Royal Forest and Bird Protection Society NZ (Forest & Bird)	S75
Spark New Zealand Trading Limited (Spark)	S118
Transpower New Zealand Ltd (Transpower)	S79
Vodafone New Zealand Limited (Vodafone)	S119
Waka Kotahi NZ Transport Agency (Waka Kotahi)	S78

Further Submitter Name	Further Submitter Number
Ernslaw	FS22
Federated Farmers	FS25
HTST	FS13

<b>Hort NZ</b>	<b>FS17</b>
<b>Kāinga Ora</b>	<b>FS23</b>
<b>NHMT</b>	<b>FS5</b>

# PART A – PRELIMINARY MATTERS

## 1 Introduction

### 1.1 Scope of this report

- 1.1.1 This document details the evaluation and recommendations of the Proposed CHBD Plan Hearings Panel on the submissions and evidence relating to Ecosystems and Indigenous Biodiversity considered at the Natural and Coastal Environment topic hearing, held on 14 March 2022, and reconvened on 15 March 2022, both held at the CHBDC Chambers, Waipawa. This report does not address submissions on specific SNAs that have been mapped and are listed in Schedule ECO-SCHED5; these submissions are addressed in our report for Hearing Stream 6.
- 1.1.2 The recommendations in this report, together with all of the other recommendations of the Hearing Panel ("the Panel") on submissions on the PDP, will all go before the full Council following the end of the hearings, who will make the formal decisions.
- 1.1.3 Our report focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, we have adopted the s42A report's recommendations and the underlying evaluation behind such changes.

### 1.2 Statutory Considerations

- 1.2.1 The Panel's Report on Preliminary Matters and Statutory Requirements sets out the statutory framework and requirements for preparing a District Plan as well as case law guidance for our consideration and recommendations. This framework is not repeated in this report. This report should be read in conjunction with the Report on Preliminary Matters and Statutory Requirements.
- 1.2.2 The report will refer to the s42A report 'Officer's Report: Ecosystems & Indigenous Biodiversity' prepared by Stella Morgan.
- 1.2.3 Ecosystems and indigenous biodiversity are addressed in the 'Ecosystems and Indigenous Biodiversity Section 32 Topic Report'.
- 1.2.4 As submissions on particular aspects of the PDP are considered through hearing reports, officers are required to consider any alternative provisions put forward in the context of what s32 requires, and when changes are recommended, a further assessment under s32AA will be provided if the change is a material departure from what notified. That same obligation to make a further assessment under s32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.
- 1.2.5 Through Minute #5, the Panel urged submitters to provide the hearings with a further assessment under s32AA for any changes to the PDP they were seeking. Where these have been provided, they are noted in the summary of evidence to the hearing sections of this report.
- 1.2.6 Where the Panel has made amendments to the Plan that are consistent with the recommendations contained within the reporting planners' s42A and / or rights-of-reply (and



where there are relevant joint witness statements) we have adopted the s32AA analysis contained within those reports (unless expressly stated otherwise). Those reports are part of the public record and are available on the CHBDC website.

- 1.2.7 Where the Panel has made amendments to the PDP that are not contained within the reporting planner's recommendations, we have undertaken the required s32AA analysis and have incorporated it into the body of our report, with the required assessment forming part of our evaluation. We are satisfied that the required substantive assessment has been undertaken.

### 1.3 Submissions

- 1.3.1 There were 27 submitters and 9 further submitters across the whole 'Natural Environment - Ecosystems and Indigenous Biodiversity' topic. These submissions contained 161 original submission points, and 130 further submission points: of the 161 original submission points, 76 submission points are in support.
- 1.3.2 The submission points in opposition can be generally divided into the following main groups:
- General opposition to identifying SNA and imposing restrictions/ greater responsibilities on landowners as a result, including opposition to SNAs on land protected by QEII National Trust or similar;
  - Amendments sought to definitions to clarify or change meaning;
  - Lack of assessment (section 32) to justify provisions (or lack of) relating to plantation forestry activities;
  - Insufficient provisions relating to protection of freshwater;
  - Various amendments to Ecological Significance Determination Criteria; and
  - Amendments to ECO-P2 / Various amendments to ECO-Rules and Deletion of ECO-AER5.

### 1.4 Procedural Matters

- 1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with cl8AA of Schedule 1, or undertaken on the submissions relating to the Ecosystems and Indigenous Biodiversity chapter prior to the finalization of the s42A report. No further consultation or meetings with any parties regarding open space and recreation, public access, and activities on the surface of water.
- 1.4.2 No procedural matters were raised, however, for the record, the Chair of the Hearings Panel abstained from the hearing or deliberating on the submission from Transpower due to a conflict of interest.
- 1.4.3 No matters of trade competition were raised.

### 1.5 Hearing

- 1.5.1 The hearings were held on 14 March 2022, and reconvened on 15 March 2022, at the CHBDC Chambers, Waipawa. The hearing was adjourned at the end of 15 March 2022.
- 1.5.2 Submitters who appeared at the hearing, in relation to the ecosystems and indigenous biodiversity topic key issues under which their evidence is discussed, are shown below in Table 1.

All evidence can be found on the PDP Hearing Schedule webpage under the relevant Hearing Stream 1 [[Hearing Stream 1 | Central Hawke's Bay District Council \(chbdc.govt.nz\)](#)].

**Table 1. Submitters who appeared at Hearing Stream 1: Natural and Coastal Environment in relation to ecosystems and indigenous biodiversity**

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence	Key Issues under which evidence is discussed
Ernslaw (S132, FS22) Rayonier (S85)	Lynette Baish (Environmental Planner) Trish Fordyce	Joint hearing attendance Joint Submitter Evidence Joint Legal Submissions	Key Issues 1, 2, 4, 5, and 6
Federated Farmers (S121, FS25)	Rhea Dasent (Senior Policy Advisor)	Attended Hearing Submitter Evidence Submitter Presentation Notes	Key issues 1, 2, 4, 6, 7, and 9
FENZ (S57)	Paul McGimpsey (Planner, Beca) Nigel Hall (Fire and Emergency) Bob Palmer (Fire and Emergency)	Attended hearing Submitter Evidence	Key issues 7 and 8
HBRC (S11)	Gavin Ide (Principal Advisor Strategic Planning)	Attended Hearing Submitter Statement Supplementary Hearing Statement	Key issues 2, 7, and 8
Ngāti Kere Hapū Authority (S134)	David Tipene-Leach	Attended Hearing	Key issue 3
Forest & Bird (S75)	Tom Kay (Forest & Bird) May Downing (Legal Representation)	Attended Hearing Submitter Presentation notes Legal Submission	Key issue 1, 6, 7 and 9

1.5.3 Appearances for the Central Hawke's Bay District Council were:

- Ms. Stella Morgan, reporting planner; and
- Mr. Gerry Kessels, Consultant Ecologist to CHBDC.

1.5.4 Evidence provided by Ms Morgan included:

- Officer's Report: Ecosystems and Indigenous Biodiversity;

- Statement of Supplementary Planning Evidence - Ecosystems and Indigenous Biodiversity, Open Space and Recreation, Public Access, Activities on the Surface of Water; and
- Opening statement (tabled and verbal).

1.5.5 Evidence provided by Mr Kessels included:

- Memo as Appendix C to s42A report on Ecosystems and Indigenous Biodiversity commenting on submissions; and
- Attendance at hearing for questioning.

1.5.6 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. In relation to this report the Panel requested that the following activities be undertaken:

- That the reporting planner conference with the relevant parties that submitted on Rule ECO-R3 to address; (1) whether the Rule can be amended to avoid or mitigate the potential cumulative effects of the potential annual clearance of indigenous vegetation permitted under it; and (2) whether there should be an “AND” or an “OR” between Rule ECO-R3 conditions (a) and (b) – that is, whether the conditions should be conjunctive or disjunctive.
- That the reporting planner provide a written right-of-reply.

1.5.7 A written right-of-reply from the Council's reporting planner was received and circulated on 18 April 2022.

1.5.8 The supplementary Council reply on Expert Conferencing on 'Ecosystems and Indigenous Biodiversity' chapter for Rule ECO-R3 was received and circulated on 4 May 2022.

1.5.9 The tenth memorandum and direction of the Hearings Panel in response to Hearing Stream 1 was issued on 27 June 2022. The Panel requested that, due to perceivable duplication between Rules ECO-R1A and ECO-R3, the reporting officer considers if a more simplified rule structure would be possible.

1.5.10 The written right-of-reply from Council's reporting planner was received and circulated on 19 August 2023.

1.5.11 The eighteenth memorandum and direction of the Hearings Panel following the final hearing for Hearing Stream 4 on Tangata Whenua matters was issued on 21 November 2022. It directed the reporting planner to provide a written right or reply with respect to providing a response to all submission points regarding Tangata Whenua matters.

1.5.12 The written right-of-reply from Council's reporting planner was received and circulated on 9 December 2022.

## **1.6 Structure of this Report**

1.6.1 Given the number, nature and extent of the submissions and further submissions received, we have structured this decision according to the key issues identified in the s42A report, rather than present a submission point by submission point evaluation. There were 9 key issues addressed in this report.

- Key Issue 1 – Definitions;
- Key Issue 2 – Whole of Chapter, Introduction, Issues and Objectives;

- Key Issue 3 – Tangata Whenua Values;
- Key Issue 4 – Ecological Significance Determination Criteria for the Central Hawke’s Bay District;
- Key Issue 5 – Biodiversity Offsetting;
- Key Issue 6 – Other Policies and Associated Methods;
- Key Issue 7 – ECO-Rules;
- Key Issue 8 – Other Matters; and
- Key Issue 9 – General Submissions on Scheduling.

- 1.6.2 We have structured our evaluation and decision on a hierarchical basis, firstly reviewing the overarching issues relating to the topic and those submissions that made general points about the topic, including those seeking a binary relief such as complete withdrawal of relevant plan provisions. This includes definitions.
- 1.6.3 We then turn our evaluation to the higher-level provisions of the District Plan relating to the topic: the objectives and policies and associated matters.
- 1.6.4 Thereafter we consider the associated rules and standards, and, if relevant, methods and anticipated environmental results.
- 1.6.5 The Panel’s recommendations for each submission point are listed in the table in Appendix B.

## PART B – EVALUATION

### 2 Overview

- 2.1.1 The Ecosystems and Indigenous Biodiversity provisions of the PDP, sit within the 'Natural Environment Values' section of the PDP, as a Part 2 District-Wide Matters. They update the ODP scheduling and mapping of 'Areas of Significant Nature Conservation Value' (ASNCVs), and replace the 'Nature Conservation' provisions, contained within the Rural Zone provisions of the ODP.
- 2.1.2 The 'Initial Section 32 Scoping Report' prepared in 2017, identified that the ODP 'Nature Conservation' provisions needed full review, to better address Council's RMA section 6(c) responsibilities, being 'the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna', as a matter of national importance.
- 2.1.3 To assist Council, consultant ecologist Gerry Kessels<sup>1</sup>, was commissioned to complete a review of the District's natural heritage, as the basis for better understanding the District's natural heritage resource that met the tests of section 6(c), and to provide guidance on methods for meeting Council's section 6(c), section 7(d)<sup>2</sup> and section 31(b)(iii)<sup>3</sup> responsibilities. This resulted in the following assessment reports being produced:
- Assessment of Natural Heritage for the Review of the Central Hawke's Bay District Plan, Kessels Ecology (April 2018);
  - Central Hawke's Bay District Council Final Desktop SNA Review – Methodology, Tonkin + Taylor (March 2019); and
  - Central Hawke's Bay District Plan Significant Natural Area Review, Bluewattle Ecology (May 2020).
- 2.1.4 The review included deriving best practice criteria for natural feature significance assessment, analysis of the District's current ASNCVs, and provision of recommendations for identification of features meeting the newly developed criteria. The derivation of significance criteria was developed based on the review of other District and HBRC criteria, as HBRC does not currently prescribe significance criteria.
- 2.1.5 The proposed SNAs of the CHBD are derived from previously termed ASNCV sites, which were reviewed for significance. This was carried out through analysis and interpretation of aerial photography along with information from ecological reports and data, and local ecological knowledge. The data was subject to revision through consultation with the HBRC and other stakeholders, and in some cases ground-truthing to provide the final dataset of information.

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<sup>1</sup> Over the period of preparing the review Mr Kessels consulted to Kessels Ecology, Tonkin + Taylor and Bluewattle Ecology, as reflected in the authorship of each report.

<sup>2</sup> Section 7(d) "In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to – ... 'intrinsic values of ecosystems'".

<sup>3</sup> Section 31 (b)(iii) "Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:.. the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—...the maintenance of indigenous biological diversity".

- 2.1.6 Given this review was largely a desktop study, a 'Confidence Level' attribute was assigned to each site to indicate the amount of confidence in the accuracy of the significance assessment of a site. This attribute reflects the accuracy and availability of information about the site.
- 2.1.7 The outcome of this assessment process was the identification of approximately 7% of the District's area as having ecological significance. Almost half of these areas have some form of legal protection under statute or covenant, with the largest site being the Ruahine State Forest Park. This indicates Central Hawke's Bay is a district with very little remaining indigenous cover overall, particularly on the lowlands, plains and coastal areas. The most represented ecosystem/vegetation types based on area, are mountain beech-red beech Forest & podocarp forest (largely of the Ruahine Range) as well as shingle/braided rivers, coastal vegetation and estuary river mouth. As well as the underrepresented forest vegetation types, manuka and scrub covers approximately 2% of the District, and wetland habitat covers less than 1% of its original extent in the District.
- 2.1.8 The Ecosystems and Indigenous Biodiversity PDP provisions have sought to align with the Draft NPS-IB produced in late 2019, which represents the combined interests of a range of key stakeholders involved in its development, and current best practice. However, it is acknowledged that Council Legal Counsel Ms Davidson stated in her opening submissions that
- "The RMA does not require you to consider, or give effect to, draft NPS. The Environment Court in Mainpower NZ Limited v Hurunui District Council held that while draft national policy statements can be considered in the context of relevant matters, no weight should be given to them as they may yet change."*
- 2.1.9 As stated, this topic report addresses submissions received on the Part 2 District-Wide Matters, Natural Environment Values 'ECO-Ecosystems and Indigenous Biodiversity' and specific associated definitions. It does not address submissions received on specific areas which have been identified as SNAs in ECO-SCHED5. Those submissions will be addressed as part of Hearing Stream 6.
- 2.1.10 There are 27 submitters and 9 further submitters across the whole 'Natural Environment - Ecosystems and Indigenous Biodiversity' topic. These submissions contain 161 original submission points, and 130 further submission points relating to this topic. Of the 161 original submission points, 76 submission points were in support.
- 2.1.11 The submission points in opposition can be generally divided into the following main groups:
- General opposition to identifying SNA and imposing restrictions/ greater responsibilities on landowners as a result, including opposition to SNAs on land protected by QEII National Trust or similar;
  - Amendments sought to definitions to clarify or change meaning;
  - Lack of assessment (section 32) to justify provisions (or lack of) relating to plantation forestry activities;
  - Insufficient provisions relating to protection of freshwater;
  - Various amendments to Ecological Significance Determination Criteria; and
  - Amendments to ECO-P2 / Various amendments to ECO-Rules and Deletion of ECO-AER5.



### 3 Key Issue 1 – Definitions

#### 3.1 Proposed Plan Provisions

- 3.1.1 The PDP provisions for ecosystems and indigenous biodiversity are supported by a number of definitions to provide clarity and consistency in understanding and/or implementing the provisions.

#### 3.2 Submissions

- 3.2.1 The definitions that have been submitted and further submitted on include:
- 'Areas of significant indigenous vegetation and/or significant habitats of indigenous fauna';
  - 'Clearance';
  - 'Trimming';
  - 'Indigenous Vegetation';
  - 'Wetland / Natural Wetland';
  - 'Biodiversity Offset'; and
  - 'Biodiversity Compensation'.
- 3.2.2 Matters raised by submitters in relation to definitions mainly relate to minor corrections, amendments and clarifications to assist in application of the proposed definitions, and /or alignment with definitions in other relevant policy and/or regulations.

#### 3.3 Reporting Planner's Recommendations

##### 'Areas of Significant Indigenous Vegetation and/or Significant Habitats of Indigenous Fauna'

- 3.3.1 The reporting planner recommended accepting Forest & Bird's submission (S75.001) that supports the definition as proposed and sought that it be retained. Their reasons included supporting having a single definition for 'Areas of Significant Indigenous Vegetation and/or Significant Habitats of Indigenous Fauna', and having the definition include listed sites (i.e. SNAs listed in ECO-SCHED5), as well as other sites that meet ecological significance criteria (as listed in Policy 1 and ECO-APP1).

##### 'Clearance'

- 3.3.2 The reporting planner recommended accepting in part Forest & Bird's submission (S75.002) because the submission supports the definition as proposed, but amendments have been made in relation to other submissions below. The reporting planner agreed with the proposed minor amendment as sought by the submitter and further submitters as this corrects a minor error.
- 3.3.3 The reporting planner recommended accepting in part Hort NZ's submission (S81.010) that sought an amendment to rename the term 'Clearance' to 'Indigenous Vegetation Clearance' and to correct minor editing error in (f) to separate into two main points. The reporting planner agreed with the correction of the minor editing error of clause (f), but did not support amending



the term 'clearance' as she considered that it is clear within the definition of 'clearance' that the term relates specifically to indigenous vegetation. She also noted that the term 'indigenous vegetation' was separately defined in the PDP and was a term that was widely used throughout the ECO chapter.

- 3.3.4 The reporting planner recommended rejecting James Bridge's submission (S105.001) that sought that the definition be replaced because, in the PDP, the term 'clearance' was very specific to indigenous vegetation and addressing the felling, burning, removal, damage or destruction of such vegetation.
- 3.3.5 The reporting planner accepted in part Federated Farmers' submission (S121.232) that sought to delete drilling or excavation, discharge of toxic substances, and mob stocking activities from the definition. The reporting planner recommended that 'drilling or excavation' and 'discharge of toxic substances' were potential clearance threats, and Federated Farmers had not provided any justification for their exclusion.
- 3.3.6 The reporting planner did, however, agree that a clarification of what 'mob-stocking' was would be helpful, and may also address the concerns outlined in Federated Farmers' submission.
- 3.3.7 The reporting planner recommended that the following amendments are made:

**'CLEARANCE'**

in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line:

- a. application of chemicals
- b. application of seed of exotic pastures
- c. burning
- d. changes to soils, hydrology, or landforms
- e. drainage
- f. drilling or excavation discharge of toxic substances
- g. mob-stocking **(means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation).**
- h. Overplanting

- 3.3.8 The reporting planner rejected Kāinga Ora's submission (S129.002) that sought to delete 'changes to soils, hydrology, or landforms', and 'overplanting'. The reporting planner considered that the draft NPS-IB definition included reference to 'changes to soils, hydrology or landforms' and 'overplanting', and, in her opinion, there was no justified reason for their removal.

**'Trimming'**

- 3.3.9 The reporting planner recommended rejecting Federated Farmers (S121.250) and Forest & Bird's (S75.006) submissions to amend this definition.
- 3.3.10 Council's ecologist Mr Gerry Kessel's advised that an amendment as sought by Federated Farmers would provide a broad scope for trimming that is not intended by the definition, and that a more definitive term as sought by Forest & Bird is not practical. The reporting planner also noted that, with respect to Forest & Bird's concerns, the ECO rules relating to the 'trimming' or 'clearance' of indigenous vegetation inside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands) encourage the appointment of a qualified arborist for undertaking any such work, and in most instances, this should address the concerns identified by Forest & Bird in this submission point.

**'Indigenous Vegetation'**

- 3.3.11 The reporting planner recommended accepting only in part Forest & Bird's submission (S75.005) to retain the definition of 'indigenous vegetation' as proposed as the definition is subject to amendments as a result of other submissions.
- 3.3.12 The reporting planner recommended rejecting Rayonier Matariki Forests' submission (S85.018) that sought to amend the definition to specifically exclude plantation forestry as this submitter did not provide any reasons why plantation forestry should be specifically stated in this definition as an exclusion, and the reporting planner considered that to do so would not be consistent with the definition provided in case law and subsequently adopted by the draft NPS-IB.
- 3.3.13 The reporting planner recommended accepting Hort NZ's submission (S81.017) that sought to remove mention of vegetation that has been regenerated with human assistance following disturbance. In the reporting planner's view, indigenous vegetation that has been planted by humans, would also be captured by the first part of the definition and for that reason she did not consider the second sentence sought by the submitter added anything to the definition other than perhaps being for the avoidance of doubt. To better reflect a plain English understanding of the term and avoid confusion she recommended deleting the second sentence from this definition as follows:

**'INDIGENOUS VEGETATION**

vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. ~~Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance.'~~

- 3.3.14 The reporting planner recommended rejecting James Bridge's submission (S105.002) that sought to include area / percentage requirements within the definition of indigenous vegetation. Provisions ECO-P1 and ECO- APP1 in the PDP provide a set of defined Ecological Significance Determination Criteria to assist in determining areas of significant indigenous vegetation to be protected. In the reporting planner's view, it would be confusing to include separate requirements within the definition of indigenous vegetation. It also would not align with the definition for indigenous vegetation provided by the case law cited and subsequently adopted by the draft NPS-IB.
- 3.3.15 The reporting planner recommended accepting in part Federated Farmer's submission (S121.237) that sought to exclude vegetation that has been planted by humans insofar as she recommended removal of the second sentence from the PDP definition for 'indigenous vegetation' as discussed in paragraph 3.3.13 above.

**'Wetland (Natural)/ Natural Wetland'**

- 3.3.16 The reporting planner recommended rejecting the submissions of the Pork Industry Board (S42.009), Hort NZ (S81.031), and NHMT (S125.004) that sought to align this definition with the definition in the NPS-FM 2020.
- 3.3.17 She stated that the PDP definition of 'Wetland (Natural) / Natural Wetland' was specifically developed for Central Hawke's Bay by Council ecologist Gerry Kessels, as the draft NPS-IB does not address significance in terms of s6(c) for wetlands, and thus provides no guidance, nor does the HBRC provide any guidance in its policy documents on this matter. The definition essentially describes how wetlands were assessed as part of their identification as significant natural areas for inclusion in Schedule ECO-SCHED5. There are a number of SNAs that comprise or include

wetlands. In Mr Kessel's view, the NPS-FM definition for a wetland did not necessarily meet the threshold for a wetland in terms of s6(c) and thus was not a suitable definition in the context of determining when a wetland meets the SNA threshold. In that sense, the definition adopted in the PDP (as provided by Mr Kessels) was particular to wetlands that would meet the criteria to qualify as an SNA in the SNA.

#### Proposed New definitions for 'Biodiversity Offset' and 'Biodiversity Compensation'

- 3.3.18 The reporting planner recommended accepting in part Forest & Bird's submission (\$75.090) that sought new definitions for Biodiversity Offset and Biodiversity Compensation.
- 3.3.19 She noted that the PDP already includes definitions for 'Biodiversity Offsetting' and 'Biodiversity Compensation' that reflect the terms as used in the draft NPS-IB. Whilst they are worded slightly differently to the wording sought by Forest & Bird, she noted that they appear to have similar intent.
- 3.3.20 With respect to Forest & Bird's concerns about the relationship of these terms with the term 'Environmental Compensation', the reporting planner noted that the PDP only uses 'Environmental Compensation' in relation to the RE-Renewable Energy chapter of the PDP and that this term was never intended to cover biodiversity offsetting as well. The matter of clarifying the definition of 'Environmental Compensation' to make it clear that it only relates to renewable energy matters, are addressed in later hearings when the Renewable Energy provisions of the PDP were considered.

### 3.4 Evidence to the Hearing

#### 'Clearance'

- 3.4.1 Forest & Bird tabled a written statement from Tom Kay to the Hearings Panel. They noted that, while the reporting planner accepted separating point (f) in the definition ("drilling or excavation discharge of toxic substances") into two points, this was not apparently carried through into the recommended tracked changes. Forest & Bird also did not have any issues around additional text defining mob-stocking.
- 3.4.2 Hort NZ submitted written evidence to the Hearings Panel, in which they accepted the section 42A recommendations with regards to the 'Clearance' definition.
- 3.4.3 Federated Farmers also submitted written evidence to the Panel, in which there was agreement with the amendment to define mob-stocking, but not with the reporting planner's recommendation to reject the deletion of clause (f). It did not understand why these two extra points were needed for the CHBD, when the nationwide definition did not include them.
- 3.4.4 This point was further reiterated in Federated Farmers' tabled presentation notes to the Panel, where they stated that removing planted indigenous vegetation was the approach taken in the recent Waikato District Plan. Federated Farmers also believed that this regulation would discourage people planting indigenous vegetation.
- 3.4.5 Kāinga Ora submitted a written statement to the Hearings Panel, where they expressed uncertainty about what was meant by 'overplanting', contending that it should be deleted in absence of further clarification.

**'Indigenous Vegetation'**

- 3.4.6 Hort NZ also submitted written evidence to the Hearings Panel on this definition. Hort NZ accepted the section 42A recommendations with regard to the 'Indigenous Vegetation' definition.
- 3.4.7 Federated Farmers submitted written evidence to the Hearings Panel on this definition. Federated Farmers contended that there is little explanation why the reporting planner considers that it was more appropriate to provide exclusions in the rule framework rather than the definition. Federated Farmers believed that it was easier to exclude planted vegetation from the definition so that it was outside of regulation and not recognised as a resource that needed District Plan intervention.

**'Wetland (Natural)/ Natural Wetland'**

- 3.4.8 Hort NZ submitted written evidence to the Hearings Panel. They accepted the section 42A recommendations with regard to the 'Wetland (Natural) / Natural Wetland' definition.

**Proposed New definitions for 'Biodiversity Offset' and 'Biodiversity Compensation'**

- 3.4.9 Forest & Bird tabled a written statement to the Hearings Panel. It remained concerned about the term 'Environmental Compensation' but understood that this would be addressed in a subsequent hearing.

**3.5 Post-Hearing Information**

- 3.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 3.5.2 The reporting planner's right-of-reply addressed the definition of 'Clearance' and Kāinga Ora's uncertainty around the meaning of 'overplanting'. Ms Morgan explained that she had discussed this with Council's Ecologist Gerry Kessel's who had advised that this was not likely to be an issue for Central Hawke's Bay. The reporting planner, on this basis, recommended the following amendment:

**CLEARANCE**

in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line:

- a. application of chemicals
- b. application of seed of exotic pastures
- c. burning
- d. changes to soils, hydrology, or landforms
- e. drainage
- f. drilling or excavation discharge of toxic substances
- g. mob-stocking **(means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation).**
- h. ~~Overplanting~~

### 3.6 Evaluation and Findings

#### 'Areas of Significant Indigenous Vegetation and/or Significant Habitats of Indigenous Fauna'

- 3.6.1 There was 1 submission and 3 further submissions received on the definition of 'Areas of Significant Indigenous Vegetation and/or Significant Habitats of Indigenous Fauna'. As no changes were sought, the Panel therefore recommends these submissions and further submissions be accepted as per the recommendation of the reporting planner.

#### 'Clearance'

- 3.6.2 The Panel recommends accepting some amendments to the definition of 'clearance' to clarify what is meant by mob-stocking as we believe it is preferable to explain in plain English, and we also accept the reporting planner's recommendation in her right of reply to remove 'overplanting' thereby addressing Kāinga Ora's and Federated Farmers concerns for clarification. We also recommend correcting the issue with clause (f) by separating it into two sub-clauses.
- 3.6.3 In regard to the further changes requested by James Bridge, Federated Farmers, and Kāinga Ora in the form of a new definition or by the deletion of certain subclauses, these were not supported by the Panel, as we agree with the reporting planner on these submission points.
- 3.6.4 Below is the definition of 'clearance' as decided upon by the Hearings Panel:

#### **'CLEARANCE'**

in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line:

- a. application of chemicals
- b. application of seed of exotic pastures
- c. burning
- d. changes to soils, hydrology, or landforms
- e. drainage
- f. drilling or excavation
- ~~f-g.~~ discharge of toxic substances
- g-h. confining livestock in an area in which there is insufficient feed and results in the destruction of all or most indigenous vegetation mob-stocking (means confining livestock in an area in which there is insufficient feed and in a way that results in the removal of all or most available vegetation).**
- ~~h.~~ Overplanting

#### 'Trimming'

- 3.6.5 The Panel agrees with the reporting planner and Council's Ecologist in that the amendment sought by Federated Farmers would provide an overly broad scope for trimming that is not intended by the definition, and that a more definitive term as sought by Forest & Bird is not practical.
- 3.6.6 The Panel also found that no further changes are required to the definition other than to clarify that this is in relation to indigenous vegetation, which may help to address in part Kāinga Ora's submission (\$129.062):

#### **'TRIMMING'**

**In relation to indigenous vegetation** includes either of the following:

- a. pruning of vegetation and trees including the removal of broken branches, dead wood or diseased vegetation

- b. selective branch removal to increase light and air movement or to improve tree health,  
But excludes clearance.'

#### 'Indigenous vegetation'

- 3.6.7 The key contention over the definition of 'indigenous vegetation' is whether the exclusions from the term should be captured within the definition (as sought by Federated Farmers) or contained within the rule framework (as recommended by the reporting planner). In our evaluation, the Panel agrees with the reporting planner that the proposed definition should intrinsically be broad as it should cover all indigenous plants, vascular and non-vascular, as this underlies the broad assessment undertaken on behalf of the Council in meeting its obligations under the RMA. The Panel considers it appropriate that any exemptions occur through the regulatory controls as the exemptions are not as to whether types of plants are indigenous or not, but the human related purpose or occurrence of such plants (for example, whether indigenous vegetation has been deliberately planted for shelter or ornamental purposes). However, the Panel considers the inclusion of the term 'ground cover' is superfluous as ground cover inherently must comprise vegetation, and vegetation will include ground cover. We recommend the following amendments to the definition:

#### 'INDIGENOUS VEGETATION

vegetation ~~or ground cover that are~~ is indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. ~~Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance.~~

#### 'Wetland (Natural)/ Natural Wetland'

- 3.6.8 We agree with the reporting planner to reject the submissions of the Pork Industry Board (S42.009), Hort NZ (S81.031), and NHMT (S125.004) that sought to align this definition with the definition in the NPSFM 2020, given the definitions in the PDP are to serve a purpose specific to the Central Hawke's Bay District. We agree with Mr Kessels advice that the NPS-FM definition for wetland / natural wetland is for different purposes than the requirements of section 6(c) as they apply to natural wetlands and that he contends that the definition in the PDP remains appropriate.

#### 'Proposed New definitions for 'Biodiversity Offset' and 'Biodiversity Compensation'

- 3.6.9 Forest & Bird have sought an amendment to the PDP to include new definitions for 'Biodiversity Offset' and 'Biodiversity Compensation'.
- 3.6.10 The Panel agrees with the reporting planner that, while the wording between the definitions proposed by Forest & Bird are written slightly differently from the PDP, they have a similar intent, and the difference sought by Forest & Bird would serve no improved function or clarity. Accordingly, we recommend that the definition of 'Biodiversity Offset' and 'Biodiversity Compensation' remain as notified with only one change to correct the reference to ECO-APP2 rather than ECO-APP1 as follows:

#### 'BIODIVERSITY OFFSETTING

a measurable conservation outcome resulting from actions that comply with the principles in ECO-APP24 Principles for Biodiversity Offsetting, designed to:

- a. compensate for (more than minor residual) adverse biodiversity effects arising from subdivision, use or development after appropriate avoidance, remediation and mitigation measures have been sequentially applied; and
- b. achieve a no net loss, and preferably a net gain to, indigenous biodiversity values.'

3.6.11 Forest & Bird also sought amendments to the definition of 'Environmental Compensation', but as this term only applies to renewable energy matters in the PDP, we address this submission in the relevant report.

## 4 Key Issue 2 – Whole of Chapter, Introduction, Issues and Objectives

### 4.1 Proposed Plan Provisions

- 4.1.1 This key issue addresses the Introduction and Issues section of the ECO – Ecosystems and Indigenous Biodiversity chapter, including 'as a whole' matters on this topic.

### 4.2 Submissions

- 4.2.1 There were 11 original submission points and 8 further submission points on this key issue.
- 4.2.2 The key matters raised in these submissions are addressed under the following subheadings:
- Alignment of PDP with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF);
  - General Opposition / Amendments to the ECO – Ecosystems and Indigenous Biodiversity chapter;
  - Effects of land use and water takes on indigenous vegetation;
  - Minor amendment to Introduction;
  - Minor amendments to Objective ECO-O1;
  - Amendments to Objective ECO-O2; and
  - Proposed New Objective.

### 4.3 Reporting Planner's Recommendations

Alignment of PDP with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF)

- 4.3.1 The reporting planner recommended rejecting Rayoniers submission points S85.021, S85.001, and S85.002. The reporting planner was of the view that it was clear within the PDP that it was the intent to apply the NES-PF and not more stringent rules. However, given this submission she has considered that this is not as clear as it should be. It is proposed to clarify this by amending the "Note" at the start of the Rules section.

*Note – Plantation Forestry Activities - In the case of conflict with any rule in this Chapter, the provisions of the NES-PF apply instead of the rule. This specifically applies to vegetation clearance that occurs during or after afforestation outside of a significant natural area, for clearance of a forestry track within a significant natural area where the track has been used in the last 50 years, and 'incidental damage' within or outside a significant natural area. Vegetation clearance of indigenous vegetation that occurs before afforestation, or within a significant natural area (other than for clearance of an overgrown forestry track or incidental damage) is not controlled by the NES-PF, and the rules in this Chapter will apply.*

*The NES-PF also imposes additional rules in relation to activities within, or near to, significant natural areas, which are not affected by the rules in this Chapter.*

- 4.3.2 With respect to Rayoniers request to delete and amend the final sentence of the introduction, the reporting planner noted that District Plans must 'give effect to' any national policy statement, the



NZCPS, national planning standard and any RPS (RMA S75(3) (a-c), and must 'be prepared in accordance with' (among other matters) any regulations (RMA s74(1) (ea)). While the draft NPS-IB has no statutory weight at present, she considered it does represent the most recent best practice approach as agreed between the key stakeholders. For these reasons, the reporting planner was satisfied that it is appropriate to reference the draft NPS-IB as proposed, as the PDP has sought to align with this as a document that, once adopted, it must 'give effect to'.

- 4.3.3 For the same reason, Ms Morgan recommended rejecting Rayonier's request to delete Issue ECO-I1 and the associated explanation.

General Opposition / Amendments to the ECO – Ecosystems and Indigenous Biodiversity chapter

- 4.3.4 The reporting planner recommended rejecting Kāinga Ora's submission point S129.062. Ms Morgan stated that it was not clear from this submission what decision was sought or what specific changes Kāinga Ora were seeking. With respect to their request for amendments to provide greater differentiation to 'trimming' and 'clearance' activities, she considered it would be helpful to the Panel if Kāinga Ora could provide further detail.
- 4.3.5 With respect to the assessment matters in this section of the PDP, the reporting planner noted that these were relevant as matters to which Council's discretion was limited, being activities that did not meet permitted activity status in Rules ECO-R2(1), ECO-R4(1)), or matters for Council to take into account (but not limited by) when assessing an application for a discretionary activity (as provided in Rules ECO-R3, ECO-R4(3) and ECO-R5. She was satisfied that these matters were appropriate matters to consider, and that they related to potential effects of clearance or trimming on indigenous vegetation or habitats of indigenous fauna for which mitigation might be required.
- 4.3.6 With respect to Kāinga Ora's concerns relating to the terms 'High Natural Character' and SAFs, the reporting planner noted that these were not terms used in this particular chapter (this matter is addressed in the Section 42A Natural Features and Landscapes Report, Key Issue 1 – Kāinga Ora (S129.063)).
- 4.3.7 The reporting planner recommended rejecting Claire Murphy's (S63.002) and Duncan Smith's (S24.001) submissions that opposed this chapter and the provisions relating to SNAs'. Whilst these submitters did not specifically seek the deletion of this chapter, the reporting planner considered this outcome was implied in their expressed general opposition. In Ms Morgan's view, it would not be appropriate to delete these provisions given the small remaining areas of significant indigenous vegetation and significant habitats of indigenous fauna in the District, and the legislative requirements for Council to protect these areas.
- 4.3.8 The reporting planner also recommended rejecting both of the submission points by Gerard Pain (S28.003 and S28.005) that sought amendments to this chapter to include consideration of SNAs being 'rates free' and to provide an avenue for rural landowners to question expert's opinions regarding identified areas. The reporting planner stated that rates relief is not determined and actioned through the District Plan, and that Council has, as Mr Pain suggested, already provided the opportunity for discussion with landowners through the informal Draft District Plan phase. Ms Morgan further noted that there was an additional avenue for owners to challenge the significance of the area through the resource consent process, with the first five assessment matters in Assessment Matter ECO-AM2 specifically requiring consideration of that issue.

- 4.3.9 The reporting planner recommended rejecting the Ernslaw' submission point S132.005 that sought to include policy direction and regulatory mechanisms requiring that stock be excluded from 'areas of significant indigenous vegetation and habitat'. Ms Morgan explained that Council was required to 'take into account' regulations (s74(1)(f)) but discouraged from duplicating such provisions in District Plans where they could cause a conflict (s44A (1)-(5)). While regulation could require certain actions to be taken, the District Plan could not compel actions such as fencing, but could only control proposed activities. It may be that fencing could be offered or required as a condition of consent for activities affecting SNAs, but this would need to be considered on a case-by-case basis through the resource consent process.

#### Effects of land use and water takes on indigenous vegetation

- 4.3.10 The reporting planner recommended rejecting HBDHB's submission point S126.003 that sought that the rules be broadened to ensure that land use activities and water takes do not impact negatively on indigenous vegetation. Ms Morgan stated that control of the use of land for the purpose of maintaining and enhancing water quality, including water takes, is a regional council function (s30(1)(c)). Therefore, in her view, it would not be appropriate to include rules in the PDP for this purpose. The reporting planner was also satisfied that the objectives, policies and methods as proposed in the PDP, as part of a broader package of regulation, will assist in achieving sustainable management as required by the RMA.

#### Minor amendment to Introduction

- 4.3.11 The reporting planner recommended accepting in part HBRC's submission (S11.037) that sought to include a note in the introduction cross-referencing to the HBRMP. She agreed that for reasons of clarity, such a note is appropriate but, in her opinion, this clause would be better located at the start of the ECO-Rules section of this chapter along with other advisory notes of a similar nature. Ms Morgan therefore recommended that the note as proposed by this submitter be adopted for inclusion at the beginning of the ECO-Rules section of this chapter.

#### Objective ECO-O1

- 4.3.12 The reporting planner recommended accepting DOC's submission (S64.053) to retain ECO-O1.
- 4.3.13 The reporting planner recommended accepting in part Federated Farmer's submission (S121.015) that supported Objective ECO-O1 in part, subject to the inclusion of a new objective (discussed further below).
- 4.3.14 The reporting planner also recommended accepting Forest & Bird's submission (S75.029) that sought a minor wording amendment to this objective as she supported this on the basis that the amendment as sought, more accurately reflects the terminology outlined in matter of national importance s6(c), which underpins the ECO-provisions of the PDP, and this objective in particular. The reporting planner recommended the following amendment:

ECO-O1 Protect the District's areas of significant indigenous vegetation and ~~for~~ significant habitats of indigenous fauna, particularly those within wetlands, braided rivers, and coastal margins, from activities that may adversely affect them.

## Objective ECO-O2

- 4.3.15 The reporting planner recommended accepting DOC's submission (\$64.054) to retain this objective.
- 4.3.16 The reporting planner also recommended accepting in part Federated Farmers submission (\$121.016) that supports Objective ECO-O2 in part, subject to the inclusion of new objectives (discussed further below).
- 4.3.17 The reporting planner recommended rejecting Forest & Bird's submission (\$75.030) that sought to include reference to enhancement. Ms Morgan stated that the RMA requires Councils, in giving effect to the purpose of the RMA, 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 (section 6(c), and to control the actual or potential effects of the use, development, or protection of land, for the purpose of (among other things) 'the maintenance of indigenous biological diversity' (s31(1)(biii)). The objectives in this chapter reflect this duty and, in her opinion, inserting the requirement for 'enhancement' into Objective ECO-O2, whilst potentially desirable, is not envisaged by the RMA and can be better addressed through other methods.

## Proposed New Objective

- 4.3.18 The reporting planner recommended accepting in part Federated Farmer's submission (\$121.017) that sought a new additional objective to the ECO chapter as follows:

ECO-OX Provide for appropriate trimming and clearance of indigenous vegetation in order to enable the economic, social and cultural wellbeing of people and their health and safety.

- 4.3.19 In Ms Morgan's view, the objective as proposed is more of a policy directive as it responds to both Objectives ECO-O1 and ECO-O2, being the protection and maintenance of the district's indigenous vegetation and fauna. She considered that, given the rules providing for trimming and clearing in certain circumstances, this link could be more clearly and accurately made in the policies. On reviewing the policies, Ms Morgan considered that an amendment to Policy ECO-P2 would be appropriate, and would similarly achieve the outcome sought by this submitter. She therefore recommended the following amended wording (or similar):

ECO-P2 To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna from the adverse effects of land use and development, including earthworks and vegetation clearance, whilst providing for limited trimming and clearance opportunities where it is necessary for the economic, social and cultural wellbeing of people and their health and safety.

## 4.4 Evidence to the Hearing

### Alignment of PDP with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF)

- 4.4.1 Ernslaw submitted a statement of evidence to the Hearings Panel in which the primary concern was the potential disconnect with the NES-PF and a lack of clarity about which provisions should apply to the plantation forestry sector in relation to SNAs. Based on the s42A report, the submitter was partially satisfied with the clearer direction recommended by the reporting planner but stated that the 'note' prefacing the rule framework needed to be re-written.

- 4.4.2 The statement of evidence supported the legal submission that was also submitted to the Hearing by the submitter's legal counsel, Trish Fordyce.
- 4.4.3 Following the filing of legal submissions for Hearing Stream 1, we were informed that a meeting was held between Trish Fordyce (counsel for Ernslaw and Rayonier (Submitter)); Lynette Baish (planner for the Submitter); Asher Davidson (counsel for CHBDC); Stella Morgan (reporting officer); and Helen O'Shaughnessy, on behalf of the Council.
- 4.4.4 The topic was the appropriate wording for insertion as a note in the ECO – Ecosystems and Indigenous Biodiversity chapter regarding the role of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 in respect of plantation forestry affecting indigenous vegetation.
- 4.4.5 The agreed wording for the advice note from the Memorandum provided by Council's legal Counsel is as follows:

**Note – Plantation Forestry Activities - In the case of conflict with any rule in this Chapter, the provisions of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, (NES-PF) particularly regulations 93 and 94, apply instead of the rule.**

**For the avoidance of doubt, the NES-PF does not apply to the following activities, and they are therefore subject to the rules in this chapter:**

**- Vegetation clearance of indigenous vegetation that occurs before afforestation (see Reg 5(3)):**

**- Vegetation clearance of indigenous vegetation within a significant natural area, except that clearance of a forestry track described in Reg 93(2)(d) NES-PF, or incidental damage described in Reg 93(5), are covered by the NES-PF under Reg 93 or 94).**

- 4.4.6 Ms Morgan also submitted supplementary planning evidence that recommended the Hearings Panel adopt the proposed agreed advice note on the basis that it further clarified for plan users the circumstances when the PDP ECO-Rules applied to plantation forestry activities.
- 4.4.7 For these reasons, the reporting planners' recommendation to 'accept in part' remains in response to submission points S85.008 Rayonier and S132.002 and S132.003 Ernslaw, albeit the amendments to the advice note have changed.

#### General Opposition / Amendments to the ECO – Ecosystems and Indigenous Biodiversity chapter

- 4.4.8 In the statement of evidence from Ms Baish on behalf of Ernslaw she stated that, while she accepted that councils cannot compel fencing of SNAs to occur, she considered that it would be appropriate to include stock exclusion as a discretionary assessment criterion for resource consents for activities affecting SNAs. It did not consider that this would be out of alignment with the NES-PF and suggested that methods to achieve stock exclusion should be added to the assessment matters in ECO-AM2 in respect of the trimming and clearance of indigenous vegetation.
- 4.4.9 Gerard Pain submitted a written statement to the Hearings Panel to support his submission. He reiterated his original statement that rates relief should be provided to landowners and that there should be a way for landowners to challenge SNAs on their property. He did add, however, that Council should be adequately resourced to monitor SNAs.

#### Minor amendment to Introduction

- 4.4.10 HBRC submitted a written statement to the Hearings Panel. It noted that the reporting planner did not include the advisory note that she recommended including in paragraph 5.5 Recommended Amendments in her section 42A report. The HBRC advisor did note that it was accounted for in the recommended tracked changes.

#### Objective ECO-O2

- 4.4.11 Forest & Bird tabled presentation notes to the Hearings Panel. The submitter stated that it disagreed with the reasons the reporting officer gave to recommend rejecting its submission point on providing for enhancement within Objective ECO-O2. It considered the need for enhancement and improvement of remaining indigenous biodiversity is only increasing in the current context of a biodiversity and climate crisis. The submitter contended that the RMA direction was also supplemented by numerous international obligations (e.g., United Nations Convention on Biological Diversity) and national and regional commitments/goals (e.g., PF2050, NZ Biodiversity Strategy, Hawke's Bay Biodiversity Strategy). It stated that adding enhancement to the objective would be consistent with these ambitions, and would help achieve them, if the PDP were to reflect an ambition and need to enhance biodiversity.

#### Proposed New Objective

- 4.4.12 Federated Farmers submitted a written statement to the Hearings Panel to support its request to include a new objective to this chapter. Federated Farmers supported the reporting planner's recommended amendments to Policy ECO-P2 as a way of addressing their submission point.
- 4.4.13 Forest & Bird tabled presentation notes to the Hearing. The submitter stated that it disagreed with the reporting officer's recommendation to Policy ECO-P2 in response to the submission made by Federated Farmers. It is of the view that the widening of this policy to allow 'limited clearance' for 'economic and social wellbeing' could be broadly interpreted and lead to much more trimming and clearance than would be appropriate, and would be inconsistent with s5 and s6 of the RMA. The submitter considered that the amendment proposed by the officer is also inconsistent with their position at paragraph 9.3.5 of the Officer's Report: Natural Environment – Ecosystems and Indigenous Biodiversity.
- 4.4.14 Tom Kay, representing Forest & Bird, spoke to the Panel about this point. He stated that Forest and Bird were not opposed to some clearance and trimming opportunities, for health and safety purposes for example, but he did not think it should be elevated to the Policy level and that it was clearly set out in the rules.

## 4.5 Post-Hearing Information

- 4.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 4.5.2 Ms Morgan's right-of-reply did not address this key issue.

## 4.6 Evaluation and Findings

Alignment of PDP with Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF)

- 4.6.1 The Panel agrees with the reporting planner's recommendation to accept the wording of the recommended advice note that is set out in the Memorandum of Counsel regarding NESPF for the purpose of clarification and synchronicity.
- 4.6.2 We also agree with the reporting planner's recommendation to reject Rayonier submissions (S85.001, S85.002,) request to delete and amend the final sentence of the introduction, and to delete Issue ECO-I1 and the associated explanation respectively, for the reasons provided in the s42A report.

General Opposition / Amendments to the ECO – Ecosystems and Indigenous Biodiversity chapter

- 4.6.3 Claire Murphy and Duncan Smith both opposed the ECO – Ecosystems and Indigenous Biodiversity chapter and the provisions relating to 'SNAs'. As outlined in the s42A report, the District Council is under a statutory requirement to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance under section 6(c) RMA. One of the functions of territorial local authorities under section 31 is the control of any actual or potential effects of the use, development, or protection of land for the purpose of the maintenance of indigenous biological diversity, which is more broad obligation.
- 4.6.4 The Panel notes that, outside the Ruahine Ranges, the District has very little left of the indigenous vegetation that the area once contained. It has been estimated that only 6.9% of the District's historic indigenous vegetation cover remains, and of that, some types of indigenous vegetation that were once quite common in the District, is very rare; in particular, kahikatea-podocarp-tawa forests are now only 1% of their original cover<sup>4</sup>.
- 4.6.5 The impending NPS-IB, of which an exposure draft has recently been released<sup>5</sup>, will likely reinforce this obligation by setting specific directions for local authorities to give effect to the NPS-IB, including the mapping of SNAs and identifying their attributes and values.
- 4.6.6 The Panel is therefore satisfied that the Council has a duty under the RMA to first identify SNAs and then to determine an appropriate management framework under which such areas can be protected. It also has a broader function maintaining indigenous biodiversity throughout the District.
- 4.6.7 In terms of identifying SNAs, the Panel was satisfied that the process undertaken by the CHBDC was appropriate. Individually ground-truthing every part of the District would be a time intensive and expensive process, and we were satisfied that there is a sufficiently good information base supported by high quality contemporary aerial photography available to provide a relatively high-resolution detailed desktop analysis (down to 0.5ha).
- 4.6.8 Through its consultation process in 2019, the CHBDC has been responsive to have ground truthing undertaken if requested by specific landowners. Further ground truthing was undertaken as part

<sup>4</sup> Assessment of Natural Heritage for the Review of the Central Hawke's Bay District Plan, Kessels & Associates, 2018

<sup>5</sup> National Policy Statement for Indigenous Biodiversity Exposure Draft, Ministry for the Environment, June 2022

of the PDP hearing process. The resource consent process will enable further scrutiny of the extent and significance of specific natural areas if necessary.

- 4.6.9 The Panel did consider whether the CHBDC should have a comprehensive programme of ground-truthing all SNAs within the District, and only introduce the mapped SNAs into the District Plan via a plan change once that programme is completed. However, the Panel considered the benefits of this approach would be outweighed by the cost of undertaking such an exercise, given the level of detail already available and the level of confidence in such information. It would also defer the Council from meeting its duty under the RMA. Such ground truthing is likely to result in only minor changes to the boundaries of identified SNAs as indicated by the ground truthing undertaken to date.
- 4.6.10 In terms of the management framework, the Panel is satisfied that the notified PDP provisions provide an appropriate method for protecting SNAs in the District, acknowledging that there will always be occasional issues at the detailed level of implementation under any framework. The Panel recognises that there will be a cost for proponents of any activity that triggers a resource consent under the ECO rules, but the Panel does not anticipate that the rules will impose a significant cost across the District, given:
- the low level of change the District's remaining natural areas in recent times, as indicated in the evidence of Mr. Kessels<sup>6</sup>;
  - the majority of landowners recognise the natural assets they have on their properties, and act as guardians of the remnant indigenous vegetation, with many in the District under some form of protection<sup>7</sup>, and
  - Only a very small proportion of the District would be contained within any of the identified SNAs.
- 4.6.11 The Panel considers that the proposed regulatory framework, subject to the amendments recommended by the Panel later in this report, also provides an appropriate level of permitted activities to occur within SNAs that would not undermine their overall protection.
- 4.6.12 We agree with the reporting planner's recommendation to reject Gerard Pain's submission (S28.003 and S28.005) that sought amendments to provide an avenue for rural landowners to question expert's opinions regarding SNAs and to provide rates' relief to landowners with SNAs. In regard to the first point, the pre-notification consultation process, as well as the formal PDP notification and hearing process, have both provided an avenue for landowners to respond to the proposed identification of SNAs on their property.
- 4.6.13 In regard to the matter of rates' relief, the Panel agrees with the reporting planner that it is not within the scope of the District Plan to provide such relief, as that is subject to other statutory processes. We note though that that PDP does identify the possibility that Council may consider rates relief for landowners with SNA on their property as an 'other method' for achieving the policies of this chapter of the Plan (refer ECO-M4(3)). The Panel considers there is value for the Council to explore the merits of providing rates relief or some other forms of benefits for

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<sup>6</sup> In response to questions from the Panel

<sup>7</sup> S22 AJ & MA Smith Family Trust, S34 S Philips, S51 Riddell Family Trust Farm, S52 The C&H Hardy Family Trust & Lime Terrace Farm, S60 J & K Scholfield, S63 C Murphy, S65 E & L Potter, S72 GH Williams Trust, S83 Carlyon Station Limited, S84 Kairakau Lands Trust, S86 Roundaway Station, S95/S111 Waipuna NZ Ltd, S96 M von Dadelszen, S99 C & T Zant, S113 B&L Tosswill S132 Ernslaw One Limited, S133 D Severinsen



landowners who have an SNA on their land (for example, fencing support). We have made this recommendation as part of our broader suite of recommendations in the final part of our report [13.1.1]. The Panel notes that rates' relief is already provided to landowners who have a QEII Covenant on their property.

- 4.6.14 The Panel agrees with the reporting planner's recommendation to reject the Ernslaws submission (S132.005) that sought an amendment to include policy direction and regulatory mechanisms requiring that stock be excluded from 'areas of significant indigenous vegetation and habitat'. We agree with the reporting planner that the PDP cannot compel actions such as fencing, and that this is outside of the PDP ability to have a direct impact. We concur that it may be that fencing could be offered or required as a condition of consent for activities affecting SNAs, but this will need to be considered on a case-by-case basis through the resource consent process.
- 4.6.15 We recommend accepting in part Kāinga Ora's submission (S129.062) to provide greater differentiation between trimming versus clearance activities in relation to indigenous vegetation and habitat. In the previous 'key issue' of this report we have recommended amending the definition of both trimming and clearance to provide more clarification around their intent. In particular, we have replaced mob stocking with a clear definition of this term and recommended the deletion of overplanting.

#### Effects of land use and water takes on indigenous vegetation

- 4.6.16 We agree with the reporting planner's recommendation to reject HBDHBs submission (S126.003) that sought to broaden the rules to ensure that land use activities and water takes do not impact negatively on indigenous vegetation. We concur that the control of the use of land for the purpose of maintaining and enhancing water quality, including water takes, is a regional council function (s30(1)(c)) and therefore, not appropriate to include rules in the District Plan for this purpose.

#### Minor amendment to Introduction

- 4.6.17 We agree with the reporting planner's recommendation to accept in part HBRC's submission (S11.037) that sought to include a clarifying note to the Chapter in regard to the Regional Council's rule regarding vegetation clearance. The Panel agrees with the recommendation that the following note be included at the beginning of the ECO-Rules section of this chapter:

**'Note: These rules do not replace regional rules which control vegetation clearance and soil disturbance to address the loss and degradation of soil. These rules must be complied with prior to the activity proceeding.'**

#### Objective ECO-O1

- 4.6.18 Objective ECO-O1 was generally supported by submitters. However, one minor amendment was sought by Forest & Bird as follows:

'Protect the District's areas of significant indigenous vegetation and ~~for~~ significant habitats of indigenous fauna, particularly those within wetlands, braided rivers, and coastal margins, from activities that may adversely affect them.'

- 4.6.19 We agree with the reporting planner's recommendation to remove the 'or' as section 6(c) of the RMA, on which this Objective is based, does not use "or".



## Objective ECO-O2

- 4.6.20 We agree with the reporting planner to recommend accepting and accepting in part DOC's and Federated Farmers' submissions (\$64.054, and \$121.016) respectively to retain this Objective.
- 4.6.21 We agree with the reporting planner's recommendation to reject Forest & Bird's submission (\$75.030), as the function of territorial authorities under s31(1)(b)(iii) of the Act is to maintain indigenous biodiversity rather than to maintain and enhance, and as such we agree that Objective ECO-O2 should not be amended in this manner.

## Proposed New Objective

- 4.6.22 We agree in part with the reporting planner's recommendation to amend Policy ECO-P2 in response to Federated Farmers submission (\$121.017). While we agree that the new objective proposed by Federated Farmers is better introduced as a policy, we are of the opinion that the use of the word 'opportunities' is redundant and that 'or' should be inserted to clarify that limited trimming and clearance is provided for if it is either for the economic, social and cultural wellbeing or for health and safety purposes or both.
- 4.6.23 We recommend that ECO-P2 is amended as follows:

'ECO-P2 To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna from the adverse effects of land use and development, including earthworks and vegetation clearance-, **whilst providing for limited trimming and clearance opportunities where it is necessary for the economic, social and cultural wellbeing of people and/or their health and safety.**

## 5 Key Issue 3 – Tangata Whenua Values

### 5.1 Proposed Plan Provisions

- 5.1.1 This key issue addresses matters of importance to Tangata Whenua and Māori contained within in the Ecosystems and Indigenous Biodiversity chapter.

### 5.2 Submissions

- 5.2.1 There were 10 original submission points and 9 further submission points on this key issue.
- 5.2.2 Key matters raised are addressed under the following subheadings:
- Recognising kaitiakitanga and the relationship of Māori with indigenous vegetation and fauna;
  - Recognising and providing for the relationship of Tangata Whenua and their traditions and culture with indigenous vegetation and fauna and waterbodies including the principle of Te Mana o te Wai; and
  - Development of Māori land within SNA.

### 5.3 Reporting Planner's Recommendations

Recognising kaitiakitanga and the relationship of Māori with indigenous vegetation and fauna

- 5.3.1 The reporting planner recommended accepting in part NHMT's submission (S125.051) that sought the addition of a new issue in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the PDP, and recommended accepting HTST's submission (S120.018) that sought the addition of a new Objective in this chapter (outlined below).
- 5.3.2 The reporting planner supported these changes because Council has legislative responsibilities, both in terms of the Local Government Act 2002 and the RMA, to take into account the principles of the Treaty of Waitangi, and the RMA specifically provides that local authorities shall recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga as a matter of national importance (s6(f)), as well as have particular regard to kaitiakitanga and the ethic of stewardship (s7(a),(aa)).
- 5.3.3 For these reasons, she considered it appropriate to recognize the relationship of Tangata Whenua with indigenous flora and fauna as a resource management issue and to provide an associated objective in this chapter as sought, as follows:

**ECO-I2 The desire of mana whenua to exercise kaitiakitanga in the protection of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna.**

Loss of the District's indigenous vegetation, habitats of indigenous fauna and indigenous biodiversity from threats of modification, damage, or destruction through inappropriate subdivision, use and development.

**ECO-O3 The relationship of tangata whenua and their traditions and culture with indigenous vegetation and fauna are recognised and provided for.**

Recognising and providing for the relationship of tangata whenua and their traditions and culture with indigenous vegetation and fauna and waterbodies including the principle of Te Mana O Te Wai

- 5.3.4 The reporting planner recommended that HTST's submissions (S120.020, S120.021, and S120.022) and associated further submissions regarding Te Mana o te Wai be deferred to Hearing Stream 4 to ensure they are dealt with in a consistent and holistic manner.

Development of Māori land within SNA

- 5.3.5 The reporting planner recommended rejecting NHMT's submissions (S125.061 and S125.076) that sought to retain the ECO rules and methods as notified but with amendment to ensure that they provided an appropriate pathway for Māori landowners to be able to actively use their whenua. The reporting planner, however, recommended accepting NHMT's submission (S125.075) that sought to amend the assessment matters to ensure that they provided appropriate consideration of Māori landowners to be able to actively use their whenua as part of a resource consent application under the ECO rules.
- 5.3.6 The reporting planner did not consider that it would be appropriate to have a specific rule or method for Māori land as the objective and policy are intended to apply district wide based on the significance of the particular natural area rather than land ownership. However, she did consider the inclusion of additional assessment matters in Assessment Matters ECO-AM1 and ECO-AM2 that would take into account the development of ancestral land. These would provide

for this matter to be given due regard when assessing a resource consent of this nature. She noted that this submitter has not provided any suggested wording, but that if the Hearings Panel were of a view to include additional assessment matters, she suggested the following wording (or similar) to achieve the outcome sought by these submitters:

#### **ECO-AM1 Removal of Manuka or Kanuka**

1. The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values.
2. The extent to which an area of affected indigenous vegetation or habitat of indigenous fauna and its inter-relationship with other habitats or areas of indigenous vegetation represents or exemplifies the components of the natural diversity of a larger reference area. For example, the representation of the current natural diversity of an ecological district, or representation of the original natural landscape.
3. The sustainability of the habitat or area of vegetation proposed to be modified or damaged or of any adjoining habitat of vegetation to an area proposed to be affected.
4. The degree to which the vegetation or habitat is threatened or is uncommon in the ecological district within which it is located.
5. Whether any affected area contains a vegetation type of species of flora or fauna that is regionally rare or threatened.
6. Location and dimensions of areas to be cleared and vegetation type.
7. Effects on archaeological, cultural, or historic sites.
8. Effects on waterbodies and riparian margins.
9. Clearance methods.
10. Where biodiversity off-setting is proposed, the application of the principles contained in ECO-APP2 will be considered.
11. Effects on areas of high natural character identified in CE-SCHED7, or on outstanding natural landscape or feature, or significant amenity feature identified in NFL-SCHED6.
- 12. Whether the indigenous vegetation or habitat is on land that is on Māori land that is proposed for development, and the effects of that development on the vegetation or habitat.**

*Note: Any significance assessment must be carried out by a suitably qualified ecologist or forester (i.e. B.For.Sc, BSc, B.App.Sc or relevant postgraduate qualification).*

#### **ECO-AM2 Trimming and Clearance of Indigenous Vegetation**

1. The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values.
2. The extent to which an area of affected indigenous vegetation or habitat of indigenous fauna and its inter-relationship with other habitats or areas of indigenous vegetation represents or exemplifies the components of the natural diversity of a larger reference area. For example, the representation of the current natural diversity of an ecological district, or representation of the original natural landscape.
3. The sustainability of the habitat or area of vegetation proposed to be modified or damaged or of any adjoining habitat of vegetation to an area proposed to be affected.
4. The degree to which the vegetation or habitat is threatened or is uncommon in the ecological district in which it is located.
5. Whether any affected area contains a vegetation type of species of flora or fauna that is regionally rare or threatened.
6. Location and dimensions of areas to be cleared and vegetation type.
7. Effects on archaeological, cultural or historic sites.
8. Effects on waterbodies and riparian margins.
9. Clearance methods.
10. Where biodiversity off-setting is proposed, the application of the principles in ECO-APP2 will be considered.
11. Effects on areas of high natural character identified in CE-SCHED7, or on outstanding natural landscape or feature, or significant amenity feature identified in NFL-SCHED6.
- 12. Whether the indigenous vegetation or habitat is on land that is on Māori land that is proposed for development, and the effects of that development on the vegetation or habitat.**

*Note: Any significance assessment must be carried out by a suitably qualified ecologist or forester (i.e. B.For.Sc, BSc, B.App.Sc or relevant postgraduate qualification).*

- 5.3.7 The reporting planner recommended accepting in part Ngāti Kere Hapū Authority's submission (S134.007) that sought an amendment to the ECO provisions to ensure provision for papakāinga - kaumatua housing in the PDP is not impeded by SNA provisions where these areas overlay residual lands owned by Māori. The Authority recommended that CHBDC launch an intensive communication with mana whenua of Tamatea around land and housing development.
- 5.3.8 The reporting planner recommended rejecting Karl Tipene's submission (S59.004) that opposed all SNAs applying to Māori land. Ms Morgan did not consider it appropriate to exclude development of Māori owned land from consideration if development was being sought in an area of significant indigenous vegetation and significant habitats of indigenous fauna.

## 5.4 Evidence to the Hearing

Recognising kaitiakitanga and the relationship of Māori with indigenous vegetation and fauna

- 5.4.1 In respect of this issue no evidence or statements were provided to the Hearing's Panel.

Development of Māori land within SNA

- 5.4.2 While, in respect of this issue, no evidence or statements were provided to the Hearing's Panel, one submitter, David Tipene-Leach, representing the Ngāti Kere Hapū Authority, presented to the panel during the Hearing. In his presentation, Mr Tipene-Leach reiterated that the Authority was worried about being able to utilise some of their coastal areas that had recently been received back through a Treaty claim because of mapped overlays such as SNAs impeding development. He also noted the difficulty that Māori already have with housing and financing, as well as the difficulties that they have with Council and the Māori Land Court. He was of the view that a commitment should be made by Council to the development of Māori housing in the District.

## 5.5 Post-Hearing Information

- 5.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 5.5.2 Ms Morgan's right-of-reply did not address this key issue.
- 5.5.3 The eighteenth memorandum and direction of the Hearings Panel following the final hearing for Hearing Stream 4 on Tangata Whenua matters was issued on 21 November 2022. It directed the reporting planner to provide a written right or reply with respect to providing a response to all submission points regarding Tangata Whenua matters.

- 5.5.4 In the right of reply the reporting planner made the following amendment to her recommendation to Karl Tipene's submission S59.004:

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?	Review Comments
S59.004	Karl Tipene	ECO - Ecosystems and Indigenous Biodiversity	Oppose all SNA on Māori land	Reject <u>Accept in part</u>	<del>No</del> -Yes	Whilst reporting officers have not recommended removing SNA from Māori Land, they have proposed an additional new policy to enable the use and development of māori land that supports the values of significant indigenous vegetation and/or significant habitats of indigenous fauna (Refer S42A report – SNA Mapping, Key Issue 1 paragraphs 4.3.4 -4.3.9). This policy also reflects guidance in the 2022 NPS-IB Exposure Draft, in particular clause 3.18(2) which provides for consideration of development of Māori land within SNA.

- 5.5.5 There were no other changes to recommendations.

## 5.6 Evaluation and Findings

Recognising kaitiakitanga and the relationship of Māori with indigenous vegetation and fauna

- 5.6.1 We agree with the reporting officer's recommendation to include a new issue and objective as sought by NHMT and HTST respectively for the reasons she outlined. However, we recommend the following amendments to the wording of the new issue:

**ECO-12 The ~~lack of opportunity~~ desire of mana whenua to exercise kaitiakitanga in the protection of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna.**

- 5.6.2 We recommend replacing 'desire' with 'lack of opportunity' because kaitiakitanga is not a desire but rather an inherited obligation.

Recognising and providing for the relationship of Tangata Whenua and their traditions and culture with indigenous vegetation and fauna and waterbodies including the principle of Te Mana O Te Wai

- 5.6.3 We agree with the reporting planner to defer HTST's submissions (S120.020, S120.021, and S120.022) and associated further submissions regarding Te Mana o te Wai be deferred to Hearing Stream 4 because of the holistic nature of this matter.

Development of Māori land within SNA

- 5.6.4 The Panel agrees with the inclusion of ECO-AM1(13) and ECO-AM2(12) in response to NHMT's submission point S125.075 for the reasons outlined above and in the corresponding s42A report.
- 5.6.5 We agree with the reporting planner's recommendation to reject NHMT's submission points (S125.061 and S125.076) that sought to retain the ECO rules and methods as notified but with amendment to ensure that they provided an appropriate pathway for Māori landowners to be able to actively use their whenua. However, we note Policy ECO-P10 recommended in Report 6B

SNA Mapping. While new Policy ECO-P10 does not provide a pathway for Māori landowners to better utilise their land via the rules or methods it does provide specific policy guidance that seeks to enable the use and development of Māori land containing SNAs. This policy further reinforces the intent of the ECO-AM1(13) and ECO-AM2(12). This policy may also in part further address Ngāti Kere Hapū Authority's submission S134.007 for the same reasons.

## 6 Key Issue 4 – Ecological Significance Determination Criteria for Central Hawke's Bay District

### 6.1 Proposed Plan Provisions

- 6.1.1 This key issue covers the PDP provisions relating to 'Ecological Significance Determination Criteria'.

### 6.2 Submissions

- 6.2.1 There were 12 original submission points and 13 further submission points on this Key Issue.
- 6.2.2 This section of the report addresses submissions and further submissions received on matters relating to the Ecological Significance Determination Criteria for the Central Hawke's Bay District as provided for in Policy ECO-P1 and Appendix ECO-APP1.
- 6.2.3 We note that the application of Ecological Significance Determination Criteria to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna are generally supported by submitters, although a number of submitters did seek amendments or clarification, the particulars of which are either supported or not supported by further submitters. Key changes sought include:
- Clarification regarding the number of criteria that must be met to be considered as an Area of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna (one or two);
  - Including a requirement for ground-truthing of SNA;
  - Deleting criterion 1 that refers to Protection Status and amending to exclude certain activities; and
  - Amendments to various criteria.

### 6.3 Reporting Planner's Recommendations

Clarification regarding the number of criteria that must be met to be considered an Area of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna

- 6.3.1 The reporting planner recommended accepting in part DOC's (S64.055), NHMT's (S125.052), Rayoniers (S85.003), and Transpower's (S79.062) submissions to retain Policy ECO-P1, subject to amendments from other submissions.
- 6.3.2 The reporting planner recommended rejecting Federated Farmer's submission (S121.018) that sought a requirement for two or more criteria to be met for an area to be classified as a SNA and for it to be ground-truthed. The ecologist's assessment concluded that the system of a site meeting one or more significance criteria "was a valuable method as sites are then recognised for biodiversity values which may otherwise be excluded if all criteria are required to trigger significance"<sup>8</sup>. Mr Kessels considered that requiring a site to meet at least two of the criteria as sought by Federated Farmers submission could result in a number of sites containing significant

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<sup>8</sup> Section 3.2.5 of Natural Heritage Review of the Central Hawke's Bay District, Kessels Ecology (2018)



indigenous vegetation and significant habitats of indigenous fauna that would not qualify as SNA when they normally would, which could have a detrimental impact on the ability to protect the District's remaining indigenous biodiversity.

- 6.3.3 With respect to ground-truthing of all potential SNAs as sought by Federated Farmers, while the Natural Heritage Review acknowledged that ground truthing is the gold standard to ensure a high level of accuracy for determining SNAs, the reporting planner noted that is not always practical in larger districts such as Central Hawke's Bay.
- 6.3.4 The reporting officer recommended rejecting Federated Farmer's submission (S121.019) that sought a further amendment to ECO-P1 that includes deleting 'Criterion 1 Protection Status' and inserting a 'note' at the end of the Criteria providing for various exemptions for indigenous vegetation or habitats protected by various protective covenants. In Ms Morgan's view, land which was the subject of a QEII Covenant was so because of its ecological importance and would often also meet the criteria for identification as an SNA.
- 6.3.5 In terms of exempting land subject to protective covenants from being SNAs, she considered that where an area meets the threshold criteria for being classified as SNA (as determined by applying the Ecological Significance Determination Criteria), she considered should be consistently identified regardless of what other legal mechanisms may apply. She considered that, while alternative methods (i.e., section 221 consent notices, Ngā Whenua Rāhui and Forestry Covenants) were valid tools to protect significant indigenous vegetation and habitats, the scheduling of sites as SNAs in district plans was the most appropriate protection mechanism in a resource management context. She also considered that this approach could ensure that the Council could directly enforce any breach of the PDP rules, if necessary, under the enforcement provisions of the RMA.
- 6.3.6 With respect to the decision sought by this submitter to include an amendment that also exempted areas of domestic or ornamental landscape planting, planted shelter belts and riparian areas, plantation forestry undergrowth, and planted indigenous forestry from being SNAs, she noted that Rule ECO-R1 permitted trimming and clearance of indigenous vegetation in these circumstances so that an exemption served no real purpose.
- 6.3.7 For these reasons above, the reporting planner also recommended rejecting Federated Farmer's submission (S121.252) which sought that, two or more criteria needed to be met for an area to be classified as a SNA, and exemptions along that sought for ECO-P1
- 6.3.8 The reporting planner recommended accepting in part Forest & Bird's submission (S75.031) that sought an amendment to ECO-P1 to be clear that only one of the Ecological Significance Determination Criteria needs to be met to be an SNA. They considered there was a contradiction in it, in that Policy ECO-P1 read 'meet one or more of the criteria below' but in the body of the policy, under criterion 1, it suggested that more than 1 of the criteria needed to be met when it said: 'and meets at least one of criteria 2-7'. In this instance, the 'and' suggests criteria 1 must be met, along with one of the other criteria.
- 6.3.9 While Ms Morgan did not agree that if Criterion 1 was met a site would be significant, she did consider that Policy ECO-P1 could be confusing as currently written, and suggested the following additional wording to assist in clarifying this:

**ECO-P1** To identify Significant Natural Areas (being areas of significant indigenous vegetation and/or significant habitats of indigenous fauna) in the District where they meet one or more of the criteria below and describe these areas in ECO-SCHED5 and show their location



on the Planning Maps (except for areas that meet Criterion 1, where at least one other of Criteria 2-7 must also be met).

- 6.3.10 The reporting planner recommended rejecting Forest & Bird's submission (S75.057) that also sought a similar clarification to Appendix ECO-APP1, that only one criterion must be applied to be considered as an SNA, for the reasons above.
- 6.3.11 The reporting planner recommended rejecting DOC's submission (S64.067) that sought an amendment to Appendix ECO-APP1 Criterion 5 to broaden the definition to include naturally uncommon ecosystems that did not provide for indigenous vegetation or habitat. In consultation with Council's ecologist, Ms Morgan was of the opinion that to extend this criterion to include consideration of other values (for example, morphological or geological values) was not the purpose of section 6(c) being 'the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna'.
- 6.3.12 The reporting planner recommended rejecting Rayoniers' submission (S85.004) that sought an amendment to 'Criterion 6 – Distinctiveness' that excluded plantation forestry, as well as adding fire ponds. Mr Kessels had advised that the criterion as it stood theoretically provided for a situation where wetlands within exotic plantation forestry might also comprise a "distinctive assemblage or community of indigenous species habitat" for indigenous wetland plant or fauna communities.
- 6.3.13 The second part of this criterion described certain habitats that would qualify a site and distinguish these from areas that would not be considered, including exotic rush and pasture communities, and a range of man-made activities including water supply storage. The latter would, in the opinion of the reporting planner, include fire ponds, and therefore she considered that specific reference to fire ponds was unnecessary.
- 6.3.14 The reporting planner recommended accepting Forest & Bird's submission (S75.046) that sought to retain ECO-M1.

## 6.4 Evidence to the Hearing

Clarification regarding the number of criteria that must be met to be an Area of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna

- 6.4.1 Transpower submitted a written statement that accepted the section 42A recommended amendment to Policy ECO-P1 on the basis that SNAs were identified and mapped.
- 6.4.2 Federated Farmer's submitted written evidence to the Hearings Panel, in which, with regard to Policy ECO-P1, concern was expressed that there were SNA sites that only met a single criterion. The submitter was also concerned with the application of Criterion 1 for two reasons: (1) that SNAs would add a third-party interest over land that was already protected in a QEII National Trust covenant; and (2) a QEII National Trust covenant may not denote significant biodiversity values. Federated Farmers conceded that the recommended amendment to Policy ECO-P1 partly addressed its concerns; however, it still strongly stated that protected sites must be excluded from being scheduled as SNAs.
- 6.4.3 Rhea Dasent, representing Federated Farmers, tabled presentation notes to the Hearings Panel at the Hearing. She further reiterated that she disagreed with the reporting planner's position that

Council would not be meeting its section 6 obligations if covenanted sites were excluded from being SNAs as such sites are protected, albeit under a different mechanism.

- 6.4.4 Ms Dasent spoke to Federated Farmer's submission. She stated that QEII National Trust covenants and other covenants provided stronger protection than that the District Council could provide, and that it was the principle that the landowner had gone through a covenanting process to legally protect their site over and above what the District Plan required and yet it the land still appeared in the PDP as SNAs. She noted that there were several reasons a QEII National Trust covenant may exist other than for indigenous vegetation. When asked by the Panel if she thought that if an Open Space QEII National Trust covenant allowed for trimming or clearance of indigenous vegetation in a way that might affect its SNA value and if that was a good reason to have some RMA regulatory control, she answered no as she thought if the indigenous vegetation was an important aspect of that 'open space' covenant, then there would be controls via the covenant itself.
- 6.4.5 Forest and Bird also tabled presentation notes to the Hearings Panel at the hearing. The submitter stated that it largely accepted the position of the reporting planner with respect to Policy ECO-P1 but provided a suggested amendment to the recommendation for clarity.
- 6.4.6 Trish Fordyce submitted a legal submission on behalf of Ernslaw and Rayonier to the Hearings Panel. She stated that the submitters requested an amendment to ECO-APP1 Criterion 6 to include fire ponds as an exclusion because fire ponds were a term used in forestry for the pond created to collect water for use in the case of fire. It further stated that while a fire pond could supply water for fire purposes it was submitted that the normal understanding of water supply was one for human and or stock consumption purposes. The Council had seen fit to be specific that such supply could apply for stock purposes but the Section 42A rejected Rayonier's request for clarity when it came to firefighting purposes. It was submitted that for certainty and to ensure that there was no challenge in the future as to whether a fire pond would fall within the criterion. Ms Fordyce further requested that this submission be accepted.
- 6.4.7 Ernslaw submitted planning evidence to the Hearings Panel that concurred with Ms Fordyce's legal submission above.

## **6.5 Post-Hearing Information**

- 6.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 6.5.2 Ms Morgan's right-of-reply did not address this key issue.

## **6.6 Evaluation and Findings**

Clarification regarding the number of criteria that must be met to be considered as an Area of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna

- 6.6.1 The Panel agrees with the reporting planner's recommendation to accept and accept in part DOC's (S64.055), NHMT's (S125.052), Rayonier's (S85.003), and Transpower's (S79.062) submissions to retain Policy ECO-P1 subject to amendments from other submissions for the reasons she outlined.

- 6.6.2 We agree with the reporting planner's recommendation to reject Federated Farmer's submissions (S121.018, S121.019, S121.252) for the reasons she outlined.
- 6.6.3 The Panel also considers that it is important that the PDP identify areas of indigenous vegetation and/or habitats for indigenous fauna on a consistent basis across the District, whether or not these areas are protected under different instruments. This recognition is in alignment with the requirement in section 6(c) of the RMA to protect areas of significant indigenous vegetation, as well as the requirement to give effect to the RPS (Objective 15 of the RPS that requires 'the preservation and enhancement of remaining areas of significant indigenous vegetation, significant habitats of indigenous fauna and ecologically significant wetlands'). Whether or not an area is protected by another statutory method is not relevant as to whether it is an SNA. The form of protection is better addressed as a method: if there is no permanent enduring level of protection by another means, the rules under the RMA could fulfil the RMA duty to preserve such areas.
- 6.6.4 Additionally, the provisions for SNAs in the PDP will also provide regulation in the event that a 'covenant' lapses or does not provide for the same level of protection. We also note, as did the reporting planner, that the PDP adequately recognises QEII covenants and in fact removes any real conflict by providing for activities carried out in accordance with such a covenant were proposed to be a permitted activity (refer Rule ECO-R3(b)(iii)). Thus, no additional regulation was imposed on a landowner provided they were acting in accordance with the QEII covenant (or other exempted mechanism).
- 6.6.5 In this regard, the ECO – Principal Reasons states that:
- Council recognises that many landowners are already being proactive in the protection of areas of significant indigenous habitat including SNAs, and seeks to continue working together with the community, to encourage protection of sites on private land through consideration of other mechanisms such as QEII National Trust covenants and rates rebates in accordance with the provisions of the Local Government Act 1974.
- 6.6.6 As such, the ECO provisions are set up to incentivise people to put land in covenants as per ECO-AER4:
- Increase in the number of registered sites of QE II Covenants to protect areas of significant indigenous vegetation and/or significant indigenous habitats of flora and fauna in perpetuity.
- 6.6.7 We do, however, recommend that less overlap is provided in the PDP between the rules and the protection provided by other statutory protective instruments: we address this matter later in the report.
- 6.6.8 We agree with the reporting planner to accept in part Forest & Bird's submission (S75.031) and with her recommended amendment to clarify the relationship between the application of criteria 2-7 with criterion 1, as follows:
- ECO-P1** To identify Significant Natural Areas (being areas of significant indigenous vegetation and/or significant habitats of indigenous fauna) in the District where they meet one or more of the criteria below and describe these areas in ECO-SCHED5 and show their location on the Planning Maps **(except for areas that meet Criterion 1, where at least one other of Criteria 2-7 must also be met).**
- 6.6.9 We agree with the reporting planner's recommendation to reject Forest & Bird's submission (S75.057) in regard to amending Appendix ECO-APP1 so that only one of the criteria need apply for a site to be a SNA.

- 6.6.10 We agree with the reporting planner's recommendation and reasons to reject DOC'S submission (S64.067) that sought an amendment to Appendix ECO-APP1 Criterion 5 to broaden the definition to include naturally uncommon ecosystems that do not provide for indigenous vegetation or habitat.
- 6.6.11 The Panel does not agree with the reporting planner's recommendation to reject Rayonier's submission (S85.004) that sought an amendment to Criterion 6 – Distinctiveness to exclude fire ponds. Fire ponds have been deliberately created to provide a large water supply to fight forest fires: that is their purpose, which should not be thwarted by being classified as a SNA. The panel notes that once a fire has been successfully extinguished, then fire ponds should be able to recover.
- 6.6.12 Accordingly, we recommend accepting Rayoniers submission (S85.004) in part and recommend amending Criterion 6 as follows:

**CRITERION 6 Distinctiveness:**

- It is indigenous vegetation or habitat on an ecosystem type that is under-represented (30% or less of its known or likely original extent remaining) in an Ecological District, or Ecological Region, or nationally.

**OR**

- It is wetland, sand dune, braided river or estuarine habitats, or a distinctive assemblage or community of indigenous species habitat for indigenous plant communities and/or indigenous fauna communities (excluding exotic rush/pasture communities) that has not been created and subsequently maintained for or in connection with:
  - waste treatment;
  - wastewater renovation;
  - hydroelectric power lakes;
  - water storage for irrigation; ~~or~~
  - water supply storage, including stock water storage **and fire ponds**

- 6.6.13 We agree with the reporting planner's recommendation and reasons to accept Forest & Bird's submission (S75.046) that sought to retain ECO-M1.

## 7 Key Issue 5 – Biodiversity Offsetting

### 7.1 Proposed Plan Provisions

- 7.1.1 This key issue addresses Policy ECO-P5, Appendix ECO-APP-2 and Method ECO-M3.

### 7.2 Submissions

- 7.2.1 There were 8 original submission points and 3 further submission points that addressed provisions relating to 'Biodiversity Offsetting'.
- 7.2.2 These submissions generally supported biodiversity offsetting, with a one minor amendment sought to provide an internal cross reference linking Method ECO-M3 to Appendix ECO-APP2 'Principles for biodiversity offsetting'.

### 7.3 Reporting Planner's Recommendations

- 7.3.1 The reporting planner recommended accepting DOC's (S64.059), NHMT's (S125.056), Ernslaws (S132.007), and Federated Farmer's (S121.023) submissions that sought to retain Policy ECO-P5 as notified. The reporting planner also recommended accepting Ernslaws (S132.009) and Forest & Bird's (S75.058) submissions that sought to retain ECO-APP2 as proposed.
- 7.3.2 The reporting planner recommended accepting both Ernslaws (S132.008) and Forest & Bird's (S75.047) submissions to retain Method ECO-M3. She also agreed with the amendment suggested in Forest & Bird's submission to cross reference ECO-APP2 'Principles for Biodiversity Offsetting'. She agreed that reference to these principles under this method would be appropriate and provides greater clarity. Ms Morgan recommended the following amendment to Method ECO-M3:

#### **ECO-M3 Biodiversity Offsetting**

Applying nationally accepted best practice principles for biodiversity offsetting where biodiversity offsetting or compensation is proposed, to achieve 'no net loss' or a 'net gain' of indigenous biodiversity where adverse effects cannot be avoided, remedied, or mitigated. This includes reference to 'Guidance of Good Practice Biodiversity Offsetting in New Zealand', (Department of Conservation, (2014))<sup>1</sup>, and 'Biodiversity Offsetting Under the Resource Management Act, A Guidance Document' (Maseyk, Ussher, Kessels, Christenson and Brown, (2018)).—and the principles outlined in ECO-APP2.

### 7.4 Evidence to the Hearing

- 7.4.1 Lynette Baish for Ernslaw and Rayonier submitted planning evidence to the Hearings Panel. Ms Baish agreed with the reporting planner's recommended amendment to Method ECO-M3.

### 7.5 Post-Hearing Information

- 7.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 7.5.2 Ms Morgan's right-of-reply did not address this key issue.

## **7.6 Evaluation and Findings**

- 7.6.1 We agree with the reporting planner's recommendations and reasons, including the reference to ECO-APP2 in ECO-M3. We believe this is appropriate and provides greater clarity.

## 8 Key Issue 6 – Remaining Policies

### 8.1 Proposed Plan Provisions

- 8.1.1 This key issue addresses policies ECO-P2, ECO-P3, ECO-P4, ECO-P6 and ECO-P9.

### 8.2 Submissions

- 8.2.1 There were 33 original submission points and 20 further submission points on this key issue.
- 8.2.2 This key issue addressed submissions and further submission points on remaining ECO policies.
- 8.2.3 Matters raised through these submissions include:
- Request to amend Policy ECO-P2 to limit protection of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna to mapped and identified areas only;
  - Request to delete Policy ECO-P3 that addresses the management approach to adverse effect on areas of significant indigenous vegetation and/or significant habitats of indigenous fauna in the coastal environment;
  - Request to delete Policy ECO-P4 that applies more broadly to loss of indigenous biodiversity values;
  - Clarify with respect to rivers in general and braided rivers in Policy ECO-P4;
  - Request for specific reference noting Policy ECO-P4 does not apply to plantation forestry, and
  - Request for a new policy regarding sites already protected by a registered covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or Reserve Management Plan approved under the Reserves Act 1977.

### 8.3 Reporting Planner's Recommendations

#### Policy ECO-P2

- 8.3.1 The reporting planner recommended accepting Forest & Bird's (\$75.032), DOC's (\$64.056), and NHMT's (\$125.053) submissions to retain Policy ECO-P2 as notified subject to amendments from other submissions.
- 8.3.2 The reporting planner recommended rejecting Federated Farmer's submission (\$121.020) that sought to provide for some appropriate activities within SNAs. Ms Morgan did not agree with the wording as proposed by Federated Farmers, she disagreed with its view that it was helpful in achieving consistency between Policy ECO-P2 and the rule framework. In her view, the terminology 'inappropriate adverse effects' and 'appropriate activities' was confusing. The policy as proposed in the PDP, in her view, clearly reflected the intent of section 6(c) and the rule framework or methods for achieving this (in this case the protection of significant indigenous vegetation and significant habitats of indigenous fauna) provides the tests or the thresholds for what is acceptable trimming and clearance, whilst still protecting the overall resource.

- 8.3.3 The reporting planner recommended rejecting Rayoniers submission (S85.005) that sought to protect only areas that are mapped, and to remove references to earthworks and vegetation clearance. In Ms Morgan's opinion, limiting protection to only identified and mapped areas, as sought by Rayoniers, would not give full effect to section 6(c) of the RMA. She considered that a lack of controls to protect areas falling outside the identified SNAs could lead to significant environmental costs from the ongoing and cumulative loss of indigenous vegetation or habitat that is, or has the potential to be significant, particularly if it is scarce within the District and/or nationally. She also considered that excluding non-mapped areas would not account for change where re-growth or restoration and enhancement activities may lead to new areas emerging as 'significant' over time.
- 8.3.4 With respect to deleting reference to earthworks and vegetation from this policy, while she agreed that it is not necessary to specifically reference these, as these activities could detrimentally impact on areas of significant indigenous vegetation and significant habitats of indigenous fauna, irrespective of who is undertaking the activity. As she emphasised, there is no intention of replicating or imposing more stringent rules than apply under the NES-PF.

#### Policy ECO-P3

- 8.3.5 The reporting planner recommended accepting the submissions of DOC (S64.057), NHMT (S125.054), and Forest & Bird (S75.033) that sought to retain Policy ECO-P3 as notified.
- 8.3.6 The reporting planner recommended rejecting Federated Farmer's submission (S121.021) that sought to delete Policy ECO-P3. Ms Morgan stated that Policy ECO-P3 is appropriate because Section 75(3)(a) of the RMA requires that a district plan must give effect to any New Zealand Coastal Policy Statement. In it, Policy 11: Indigenous Biological Diversity of the NZCPS sets out requirements for the protection of indigenous biological diversity in the coastal environment, including circumstances where avoiding adverse effects of activities is required, and where avoiding significant adverse effects and remedying or mitigating other adverse effects of activities was required. This is reflected in Policy ECO-P3.

#### Policy ECO-P4

- 8.3.7 The reporting planner recommended accepting the submissions of DOC (S64.058) and NHMT (S125.055) that sought to retain Policy ECO-P4 as notified.
- 8.3.8 The reporting planner recommended rejecting Federated Farmer's submission (S121.022) that sought to delete Policy ECO-P4. In Ms Morgan's opinion, deleting this policy would leave a gap in the PDP with respect to managing the adverse effects of activities on the District's SNA and other areas of indigenous biodiversity. She emphasised that the policies need to be read in their entirety:
- Policy ECO-P1 is about identifying the district's significant indigenous vegetation and habitats;
  - Policy ECO-P2 is about protecting these areas;
  - Policy ECO-P3 is about managing effects on such vegetation and habitats in the coastal environment, and



- Policy ECO-P4 sets out Council's broader approach to the management of adverse effects on indigenous biodiversity generally.
- 8.3.9 The reporting planner recommended rejecting Kathryn Bayliss's submission (S39.008) that sought to include a reference to all waterbodies. Ms Morgan did not agree that these provisions should be extended to all waterbodies. She considered that is not the role of a District Plan as provided for in section 6(c) and s31(1)(b)(iii). She noted that Lake Whātuma, other natural wetlands and braided rivers are specifically identified, as these areas generally qualify as SNAs. Ms Morgan also noted that the Council adopted other methods to support enhancing the natural environment beyond these requirements: for example, through its partnership and support for the Hawke's Bay Biodiversity Accord.
- 8.3.10 The reporting planner recommended rejecting Forest & Bird's submission (S75.034) that sought to remove qualifying terms and to allow for the capture of smaller areas of vegetation than those mapped. Ms Morgan stated that, with respect to the use of the terms 'large areas' and 'intact indigenous vegetation' in Policy ECO-P4, this reflects the approach taken in the PDP to protect significant areas (being areas meeting one or more of the Ecological Significance Determination Criteria). She noted that there had been an ecological survey of the entire District, and that, therefore, most areas of indigenous vegetation and habitat that meet the thresholds for significance have been captured. This survey only mapped areas greater than 0.5 ha<sup>9</sup>. She stated that the Plan does not seek to protect those areas that comprise smaller clusters of indigenous vegetation or individual trees. This is reflected in the ECO-rule framework that seeks to protect those areas that have been mapped and scheduled, or potentially met the Ecological Significance Determination Criteria, or was mature manuka/kanuka, but did not control trimming and clearance of other indigenous vegetation.
- 8.3.11 With respect to use of the term 'braided rivers' in Policy ECO-P4, Ms Morgan noted that a number of rivers in the District were accorded SNA status as 'migrating river beds / migrating alluvial rivers', more commonly known as 'braided rivers', due to their importance as habitats for a range of native flora and fauna. Therefore, in her view, a specific reference to these habitats was appropriate.
- 8.3.12 The reporting planner recommended rejecting Rayoniers submission (S85.006) that sought an amendment to state that this policy does not apply to plantation forestry under the NESPF. Ms Morgan did not agree that ECO-P4 has the effect claimed by the submitter. She stated that policies give effect to specified objectives and are implemented through methods (in this case the District Plan rules and other methods that have been identified). She stated that it is therefore the ECO rules that dictate when trimming and clearance can occur. Ms Morgan considered that Rule ECO-R1 makes clear that trimming or clearance of indigenous vegetation within plantation forestry undergrowth or planted indigenous forestry is a permitted activity. In addition, Ms Morgan noted that vegetation clearance for non-SNA areas (and some limited provision for clearance within SNAs) is permitted under reg 93 NPSPF, and harvesting is a permitted activity under reg 63(1).

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<sup>9</sup> Areas of indigenous vegetation smaller than 0.5 ha were not mapped or assessed unless they were part of a larger multi-polygon site, refer page 14, Natural Heritage Review of the Central Hawke's Bay District, Kessels Ecology (2018).

## Policy ECO-P6

- 8.3.13 The reporting planner recommended accepting the submissions of DOC (\$64.060), Federated Farmers (\$121.024), Forest & Bird (\$75.035), and NHMT (\$125.057) that all sought to retain Policy ECO-P6.

## Policy ECO-P7

- 8.3.14 The reporting planner recommended accepting the submissions of DOC (\$64.061), Ernslaw One Limited (\$132.010), Federated Farmers (\$121.025), NHMT (\$125.058), and Forest & Bird (\$75.036) that all sought to retain Policy ECO-P7.

## Policy ECO-P8

- 8.3.15 The reporting planner recommended accepting the submissions of DOC (\$64.062), Ernslaw One Limited (\$132.011), Federated Farmers (\$121.026), NHMT (\$125.059), and Forest & Bird (\$75.037) that all sought to retain Policy ECO-P8.

## Policy ECO-P9

- 8.3.16 The reporting planner recommended accepting the submissions of DOC (\$64.063), NHMT (\$125.060), and Transpower (\$79.063) that all sought to retain Policy ECO-P9.

## New Policy – Exempting Protected SNA sites from District Plan rules

- 8.3.17 The reporting planner recommended rejected Federated Farmers' submission (\$121.027) that sought a new policy that stated that SNA sites protected by QEII National Trust (or similar), do not need to be regulated by the PDP. In Ms Morgan's opinion, it would not be appropriate to exempt sites already protected by QEII National Trust or similar from being identified as SNA, and that to do so would not meet the RMA tests of section 6(c) as a matter of national importance. She was satisfied that the rules appropriately address the submitter's concern by providing for trimming or vegetation clearance 'carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or a Reserve Management Plan approved under the Reserves Act 1977' as a permitted activity. Ms Morgan considered that if trimming or clearance is carried out that was not in accordance with such an instrument, it was appropriate that that activity be assessed, and if necessary, enforced, under the RMA.

## 8.4 Evidence to the Hearing

## Policy ECO-P2

- 8.4.1 Federated Farmers submitted evidence to the Hearings Panel. It stated that there was a typo in their original submission and the suggested wording they proposed should be:

To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna from adverse effects of **inappropriate** land use and development, including earthworks and vegetation clearance, **while providing for some appropriate activities.**

- 8.4.2 Ms Morgan's supplementary planning evidence stated that she did not consider the amendments sought actually provide greater clarity to ECO-P2 and, for the same reasons outlined above from her Section 42A report, did not wish to change her position regarding this submission point.
- 8.4.3 Lynette Baish submitted planning evidence on behalf of Ernslaw and Rayonier to the Hearings Panel. These companies sought amendment of ECO-P2 to protect only those areas identified and mapped in the PDP, as otherwise there will be uncertainty for landowners. She stated that this approach would be in alignment with the NPS-IB, and that a lack of methods to protect areas outside of SNAs could lead to significant environmental costs. She considered not only that mapping provides certainty, but additionally that all mapping must be searchable, and meet the requirements for presentation and mapping conventions outlined in the National Planning Standards (2019).
- 8.4.4 The legal submission submitted by Trish Fordyce for Ernslaw and Rayonier to the Hearings Panel reiterated the relief sought above. The submitters agreed with existing process that preceded this proposed plan of identifying and mapping a SNA. Ms Fordyce confirmed that the submitters were not requesting ground-truthing to be undertaken to identify SNAs and that they were comfortable with the process to date. However, she considered the Section 42A Report did not address the reason expressed in the submission that identification and mapping would provide certainty for landowners. For plantation forestry, the companies could transpose the SNA maps onto forestry maps and have the certainty that those areas had regulatory restrictions when it comes to the potential clearance of any indigenous vegetation within the identified and mapped SNA. This certainty was required to ensure that forestry activities did not contravene the regulations and could lead to enforcement actions against the forest operators.

#### Policy ECO-P3

- 8.4.5 Federated Farmers submitted a written statement to the Hearings Panel, in which the organisation stated that it opposed the use of the word 'avoid' if it meant to prohibit adverse effects. It asserted that some level of adverse effect must be deemed acceptable as evidenced by the permitted activity rules.

#### Policy ECO-P4

- 8.4.6 Federated Farmers submitted a written statement to the Hearings Panel. Its comments regarding Policy ECO-P4 are the same as in the paragraph 8.4.5 above.
- 8.4.7 Tom Kay, representing Forest and Bird, tabled presentation notes to the Hearings Panel at the hearings. He stated that the officer invited them to provide additional notes on why Forest & Bird considered this policy should be changed to remove the qualifiers "large" and "intact". In response, Mr Kay considered that these qualifiers did not accurately reflect the s6(c) requirement to "recognise and provide for... the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna": in other words, the RMA does not discriminate on the basis of size or 'intactness'.
- 8.4.8 He also stated that the method used to determine SNAs should not drive the wording of the policy – the policy should sit above the methodology, and that they also continued to consider that recognition of all rivers (not just braided) is appropriate, particularly given the RMA s6 direction.

- 8.4.9 Mr Kay suggested that a possible way to address Forest & Bird's concern, without taking away the important recognition of braided rivers, would be to recognise both explicitly.

#### Policy ECO-P7

- 8.4.10 Lynette Baish submitted evidence on behalf of Ernslaw and Rayonier to the Hearings Panel. It stated that they are generally supportive of the policy framework and considered that landowners would be appreciative of this policy that recognizes landowners' stewardship and current management practices.

#### Policy ECO-P8

- 8.4.11 Lynette Baish submitted planning evidence on behalf of Ernslaw and Rayonier to the Hearings Panel. She stated that she was generally supportive of the policy framework and considered that landowners would be appreciative of this policy that provides assistance and incentives to landowners to maintain areas of significant indigenous vegetation and habitat.

#### New Policy – Exempting Protected SNA sites from District Plan rules

- 8.4.12 Rhea Dasent, representing Federated Farmers, tabled presentation notes to the Hearings Panel at the Hearing. She further reiterated that she disagreed with the reporting planner's position that Council wouldn't be meeting its section 6 obligations if covenanted sites were excluded from being SNAs.
- 8.4.13 Ms Dasent spoke to Federated Farmer's submission. She stated that QEII covenants and other covenants were lot stronger protection than that which the CHBDC could provide. She emphasised that the landowner had purposively gone through a covenanting process to legally protect their site and yet their SNA was still proposed to appear in the PDP. She noted that there were several reasons a QEII covenant may exist other than for indigenous vegetation. When asked by the Panel whether she thought that if an open space QEII covenant allowed for trimming or clearance of indigenous vegetation in a way that affected its SNA value and if that was a good reason to have some RMA regulatory control, she answered that she did not consider it did. She thought if the indigenous vegetation was an important aspect of that 'open space' covenant, then there would be controls on the covenant itself.

## 8.5 Post-Hearing Information

- 8.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 8.5.2 Ms Morgan's right-of-reply addressed Policy ECO-P4. Ms Morgan did not change her position with regard to the terms 'large' or 'intact', but she agreed with the alternative wording around braided rivers and stated that this was clearer than the notified wording. Ms Morgan recommended Policy ECO-P4 be amended as follows:

**ECO-P4** To avoid, remedy or mitigate adverse effects, including cumulative adverse effects of subdivision, use and development that would result in a loss of indigenous biodiversity values from:

1. ...
2. Clearance of indigenous vegetation in and on the margins of Lake Whatumā, and other natural wetlands and ~~braided~~ rivers, **including braided rivers;**

## 3. ...

- 8.5.3 This amendment changes the reporting planner's recommendation to Forest & Bird's submission point S75.034 from 'reject' to 'accept in part'.

## 8.6 Evaluation and Findings

### Policy ECO-P2

- 8.6.1 For the reasons she outlined, the Panel agree with the reporting planner's recommendation to accept Forest and Bird's (S75.032), DOC's (S64.056), and NHMT's (S125.053) submissions to retain Policy ECO-P2 as notified subject to amendments from other submissions.
- 8.6.2 We agree with the reporting planner's reasons and recommendation to reject Federated Farmer's submission (S121.020) that sought to provide in this policy recognition for some appropriate activities within SNAs.
- 8.6.3 The Panel carefully considered Rayoniers submission (S85.005) that sought to amend Policy ECO-P2 such that the PDP would seek to protect only SNAs that are mapped, given the uncertainty that landowners would have in knowing whether the indigenous vegetation on their property, if not mapped, would meet the criteria to be potentially significant, and thereby be controlled under the rules.
- 8.6.4 In responding to questions at the hearing, Mr Kessels admitted that areas of indigenous vegetation smaller than the 0.5ha minimum mapping resolution may not be sustainable in the longer term. However, he stated that this would be very dependent on the nature of vegetation and its context, and that smaller areas may be of significance due to their rarity and gave the example of wetlands.
- 8.6.5 As part of our evaluation, the Panel first acknowledged that Policy ECO-P2 responds directly to the duty under s6(c) of the Act that requires the CHBDC to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The Panel accepts the evidence of the Council's expert ecologist that the significance of areas of indigenous vegetation or habitats need not solely be based on the extent of the vegetation but considerations such as rarity may also be important. We received no expert evidence to the contrary. We would also note that even small areas of indigenous vegetation or habitats have the potential to be restored and expanded.
- 8.6.6 Earlier in our report [paragraphs 4.6.5 – 4.6.8], we accepted the process the CHBDC has used to map SNAs as being appropriate, recognising the limitations of that mapping process, together with the costs and practicalities of ground truthing the entire District, including obtaining access so all parts. As a consequence, there will be the potential for smaller pockets of indigenous vegetation that have not, and for practical reasons, cannot be mapped. Limiting this policy to only mapped areas therefore would not be fully consistent with giving full effect to s6(c) of the Act.
- 8.6.7 Accordingly, the Panel recommends rejecting the request to include the words "identified and mapped in the district plan" in Policy ECO-P2.
- 8.6.8 However, the Panel does consider that there is merit in the Council maintaining an inventory of smaller areas of SNAs as further information is received or obtained. To this end, we make that

recommendation as part of a package of non-District Plan recommendations at the end of this report.

- 8.6.9 In regard to the other amendment sought by Rayonier Matariki Forest (S85.005) to delete “including earthworks and vegetation clearance” from Policy ECO-P2, we agree with the reporting planner, noting that earthworks and vegetation clearance are likely to be the primary forms of activities that would have adverse effects on SNAs.
- 8.6.10 In relation to the specific wording changes to ECO-P2 sought by Federated Farmers, we observe that s6(c) RMA does not use the term ‘inappropriate’ and we agree with the reporting planner that adding that term would create an inconsistency with the Act, and that adding that word along with ‘appropriate activities’ elsewhere in the Policy as sought by Federated Farmers, would create confusion in the meaning and understanding of the Policy.
- 8.6.11 We do agree with the reporting planner, however, that the Policy should clarify that there should be some minor exceptions where necessary for health and safety reasons or economic, social and cultural wellbeing purposes, as this would support the trimming and clearance standards proposed later in the chapter. Our recommendations to ECO-P2 are presented in Key Issue 2 and remain unchanged in light of the evidence provided in this key issue. Our recommended amendments to Policy ECO-P2 are as follows:

**ECO-P2** To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna from the adverse effects of land use and development, including earthworks and vegetation clearance, whilst providing for limited trimming and clearance opportunities where it is necessary for the economic, social and cultural wellbeing of people and/or their health and safety.

#### Policy ECO-P3

- 8.6.12 We agree with the reporting planner's recommendation to accept the submissions of DOC (S64.057), NHMT (S125.054), and Forest & Bird (S75.033) that sought to retain Policy ECO-P3 as notified.
- 8.6.13 We agree with the reporting planner's recommendation to reject Federated Farmer's submission (S121.021) that sought to delete Policy ECO-P3. ECO-P3 is giving effect to the NZCPS, and we believe that no unintended consequences nor special status would be given to coastal SNAs in the PDP.

#### Policy ECO-P4

- 8.6.14 We agree with the reporting planner's recommendation to accept the submissions of DOC (S64.058) and NHMT (S125.055) that sought to retain Policy ECO-P4 as notified. Accordingly, we also with the reporting planner's recommendation to reject Federated Farmer's submission (S121.022) that sought to delete Policy ECO-P4.
- 8.6.15 We agree with the reporting planner's recommendation to reject Kathryn Bayliss's submission (S39.008) that sought to include a reference to all waterbodies as not all waterbodies need automatically have indigenous biodiversity values.
- 8.6.16 The Panel agrees with the reporting planner's recommendation that rejects the deletion of the words 'large' and 'intact' as sought by Forest & Bird (S75.034). These words recognise and

provide for limited clearance and trimming activities for specific reasons of necessity provided by the ECO standards.

- 8.6.17 However, the Panel recommends accepting Forest & Bird's sought relief to delete 'braided' from clause 2. We consider that indigenous vegetation growing alongside all rivers in the District would have some indigenous biodiversity values and thus this policy should refer to all rivers, not just braided ones. We are of the opinion that 'rivers' includes braided rivers and so this addition is superfluous.

- 8.6.18 We recommend that ECO-P4 be amended as follows:

**ECO-P4** To avoid, remedy or mitigate adverse effects, including cumulative adverse effects of subdivision, use and development that would result in a loss of indigenous biodiversity values from:

1. ...
2. Clearance of indigenous vegetation in and on the margins of Lake Whatumā, **and** other natural wetlands and **braided** rivers;
3. ....

- 8.6.19 We agree with the reporting planner's recommendation to reject Rayoniers submission (S85.006) that sought an amendment to state that this policy does not apply to plantation forestry under the NES-PF, as the recommended advisory note elsewhere in the PDP would address this point.

#### Policy ECO-P6

- 8.6.20 We agree with the reporting planner's recommendation to accept the submissions of DOC (S64.060), Federated Farmers (S121.024), Forest and Bird (S75.035), and NHMT (S125.057) that all sought to retain Policy ECO-P6.

#### Policy ECO-P7

- 8.6.21 We agree with the reporting planner's recommendation to accept the submissions of DOC (S64.061), Ernslaw (S132.010), Federated Farmers (S121.025), NHMT (S125.058), and Forest and Bird (S75.036) that all sought to retain Policy ECO-P7.

#### Policy ECO-P8

- 8.6.22 We agree with the reporting planner's recommendation to accept the submissions of DOC (S64.062), Ernslaw (S132.011), Federated Farmers (S121.026), NHMT (S125.059), and Forest and Bird (S75.037) that all sought to retain Policy ECO-P8.

#### Policy ECO-P9

- 8.6.23 We agree with the reporting planner's recommendation to accept the submissions of DOC (S64.063), NHMT (S125.060), and Transpower (S79.063) that all sought to retain Policy ECO-P9.

#### Proposed New Policy ECO-P10 – Exempting Protected SNA sites from District Plan rules

- 8.6.24 We disagree with the reporting planner's recommendation to reject Federated Farmers submission (S121.027) that sought to include a new policy (ECO-P10) that would direct that SNA

sites protected by QEII National Trust (or similar protective mechanism) do not need to be regulated by the PDP.

- 8.6.25 We were satisfied by the reasons put to the hearing by Federated Farmers that applying PDP regulations to areas already protected under some form of covenant or other statutory mechanism did not seem appropriate, efficient or necessary. The protection achieved by such mechanisms would, we were satisfied, provide the equivalent level of protection that regulatory controls under the PDP sought. Indeed, covenant protection could be more effective in that it has been imposed voluntarily by landowners.
- 8.6.26 In addition to being more efficient, we consider that this policy, which will flow down into the rules, should encourage landowners to voluntarily protect their natural heritage under some form of protective mechanism, noting that rates relief is given to land held under a QEII covenant. The Panel considered that such a policy would support achieving Anticipated Environmental Result 4 in regard to increasing the number of registered QEII covenants to protect SNAs. It also provides the basis for the exemption in Rule ECO-R1A1(a)(iii) which enables trimming or clearance that s “carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1987 or Queen Elizabeth the Second National Trust Act 1977; or a Reserve Management Plan approved under the Reserves Act 1977”. We consider that this should also refer to Ngā Whenua Rāhui Kawenata [covenants] created under either s77A Reserves Act 1977 or s27A Conservation Act 1987 that create long-term protection on Māori Freehold land.
- 8.6.27 Thus, we recommend accepting in part the relief sought by Federated Farmers, with slightly simplified wording. Federated Farmers were seeking the following wording:

**ECO-PXX** Sites that are already protected by a registered covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or Reserve Management Plan approved under the Reserves Act 1977; already achieve the protection of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance under Section 6 of the Resource Management Act 1991, and do not need to be regulated by the District Plan further.

- 8.6.28 We recommend the following wording:

**ECO-P11** To exempt from regulatory controls under the District Plan for Significant Natural Areas, activities carried out in accordance with a registered covenant under either the Reserves Act 1977, Conservation Act 1987 (including Ngā Whenua Rāhui Kawenata created under the Reserves Act 1977 or Conservation Act 1987) or Queen Elizabeth the Second National Trust Act 1977, or are managed under a Reserve Management Plan approved under the Reserves Act 1977.



## 9 Key Issue 7 – ECO-Rules

### 9.1 Proposed Plan Provisions

- 9.1.1 This key issue addresses the rules (ECO-Rules) provisions of the PDP.

### 9.2 Submissions

- 9.2.1 There were 44 original submission points and 34 further submission points on this Key Issue.
- 9.2.2 The key matters raised through these submissions are addressed under the following headings:
- Clarification of relationship of ECO rules to plantation forestry;
  - Rule ECO-R1;
  - Rule ECO-R2;
  - Rule ECO-R3;
  - Rule ECO-R4;
  - Rule ECO-R5;
  - Rule ECO-R6; and
  - Proposed New Rule.

### 9.3 Reporting Planner's Recommendations

Clarification of relationship of rules to plantation forestry

- 9.3.1 The reporting planner accepted in part Rayonier submissions (S85.008 and S85.009) that sought an amendment to add a note to the Rule ECO-R2 and Rule ECO-R4 (similar to that provided with Rule ECO-R3) about the NES-PF. Ms Morgan agreed that the notes in relation to the ECO rules with respect to how the NES-PF applies in this section could be more clearly worded. The PDP currently provides a note at the start of the rules, which reads:

**Note: Afforestation (new plantation forestry) within a Significant Natural Area or within 10m of a Significant Natural Area is a Restricted Discretionary Activity pursuant to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.**

- 9.3.2 The reporting planner recommended that it be replaced with the following:

**Note – Plantation Forestry Activities - In the case of conflict with any rule in this Chapter, the provisions of the NES-PF apply instead of the rule. This specifically applies to vegetation clearance that occurs during or after afforestation outside of a significant natural area, for clearance of a forestry track within a significant natural area where the track has been used in the last 50 years, and 'incidental damage' within or outside a significant natural area. Vegetation clearance of indigenous vegetation that occurs before afforestation, or within a significant natural area (other than for clearance of an overgrown forestry track or incidental damage) is not controlled by the NES-PF, and the rules in this Chapter will apply.**

**The NES-PF also imposes additional rules in relation to activities within, or near to, significant natural areas, which are not affected by the rules in this Chapter.**

- 9.3.3 As a consequence of recommending how the NES-PF applies upfront, Ms Morgan did not consider the individual note on Rule ECO-3 is required, and it would be more appropriate to delete it.
- 9.3.4 The reporting planner recommended accepting in part Ernslaws submissions (S132.002, S132.003, and S132.004) that sought amendment to Rules ECO-R4, ECO-R5, and ECO-R6 that would provide clearer direction for plantation forestry activities. Noting the recommendations above Ms Morgan considered that the note at the start of the ECO-Rules that clarified the relationship of the District Plan rules with NES-PF thereby addressing the submitters concerns.

**Rule ECO-R1 Trimming or clearance of indigenous vegetation within certain areas**

- 9.3.5 The reporting planner recommended accepting in part the submissions of Ernslaw (S132.001), FENZ (S57.060), HBRC (S11.040), Hort NZ (S81.072), and Rayonier (S85.007) that sought to retain Rule ECO-R1, subject to her other recommended amendments.
- 9.3.6 The reporting planner recommended rejecting Federated Farmer's submission (S121.028) that sought amendments to exclude several types of plantings. In Ms Morgan's opinion, allowing for exclusions within the definition as sought by Federated Farmers would dilute the PDP rule cascade that is based on adverse effects, rather than the activities themselves. This would be less clear for Plan users as the detail would be in the definition rather than the rule.
- 9.3.7 The reporting planner recommended rejecting Forest & Bird's submission (S75.038) that considered that clearance of 'plantation forestry undergrowth' or 'planted indigenous forestry' should not be endorsed without conditions of management to ensure values are protected. Ms Morgan was of the opinion that the PDP had sought to align with the NES-PF and as such regulation 93 allowed for the clearance of indigenous vegetation as a permitted activity except when located in an SNA and thus it was appropriate to provide for plantation forestry undergrowth and planted indigenous forestry as permitted activities.

**Rule ECO R2 Trimming or clearance of indigenous vegetation that has naturally re-grown on land that was cleared within the previous 15 years**

- 9.3.8 The reporting planner recommended accepting in part the submissions of HBRC (S11.041), FENZ (S57.061), and Federated Farmers (S121.029) to retain Rule ECO-R2 whether in full or in part. This rule is subject to recommended amendments in response to other submissions.
- 9.3.9 The reporting planner recommended rejecting Forest & Bird's submission (S75.039) that sought to amend the rule to provide stronger permitted activity conditions, although no specific amendments were provided. Ms Morgan considered that Rule ECO-R2, including the limits and the activity status as notified, were appropriate. With respect to its reference to the draft NPS-IB clause 3.12(4)(c) and whether this rule meets these tests, she noted this clause specifically applies to the management of the effects of existing activities on SNAs and therefore does not apply to trimming or clearance envisaged under Rule ECO-R2.
- 9.3.10 The reporting planner recommended rejecting Kathryn Bayliss's submission (S39.003) that sought to prohibit clearance of indigenous vegetation, except for the activities allowed in ECO-R3(1)(b), and to make trimming discretionary, except for the activities allowed in ECO-R3(1)(b). Ms Morgan noted that Rule ECO-R2 (1) had been drafted to permit trimming and clearance of manuka and kanuka to up to certain limits as advised by Mr Kessels: beyond that, a restricted discretionary consent would be required. Similarly, clearance of other indigenous vegetation

regrowth (Rule ECO-R2(3)), is also permitted up to certain limits, beyond which the remaining Rule ECO rules (Rule ECO-R3 to Rule ECO-R6) apply. She considered that the limits and activity status were appropriate, based on expert advice.

Rule ECO-R3 Trimming or clearance of indigenous vegetation inside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands)

- 9.3.11 The reporting planner recommended accepting in part the submissions from Centralines (S90.030), Chorus (S117.056), FENZ (S57.062), Spark (S118.056), Transpower (S79.064), and Vodafone (S119.056) that sought to retain Rule ECO-R3 either in full or in part. This rule is subject to recommended amendments in response to other submissions.
- 9.3.12 The reporting planner recommended rejecting HBRC's submission (S11.018) that sought to delete (1)(a) that permits a certain amount of clearance of indigenous vegetation. Forest & Bird's submission (S75.040) to significantly to strengthen provisions including condition(1)(a) and (1)(b)(ix) was also recommended to be rejected by the reporting planner. Ms Morgan noted the intention of this rule is to allow landowners, who in the context of Central Hawke's Bay are generally farmers, with some limited opportunity for trimming and clearance associated with their existing and legitimate farming activities, within an area of significant indigenous vegetation and/or significant habitat of indigenous fauna in circumstances not listed in condition (1)(b). For example, she stated that this provision could provide for some limited track improvements (beyond maintenance), or small amounts of trimming or clearance of damaged or diseased vegetation. Additionally, provision (1)(b)(ix) sought to provide sufficient space to allow vehicle access alongside of the fence for construction and maintenance purposes and in my view is practical. Whilst potentially this could result in the loss of vegetation, in the longer term it is better for conservation (if the area to be fenced is to exclude stock) as there is less risk of damage to the fence when a branch breaks, or from new growth pushing through the fence. She remained of the view that it is appropriate to provide landowners with such flexibility.
- 9.3.13 The reporting planner recommended accepting in part DOC's submission (S64.064) that sought to clarify the rule and replace 'or' with 'and' in ECO-R3(1). Ms Morgan agreed that the title of this rule is confusing and should be consistent with the PDP definition. She therefore recommended amending the title of this rule as follows:
- ECO-R3 Trimming or clearance of indigenous vegetation inside any areas of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands)
- 9.3.14 However, she did not agree with the DOC's request to amend conditions in Rule ECO-R3(1) to replace the word 'OR' with 'AND' (that is, conditions (i)a and (i)b) which would require both conditions to be met. She considered that the purpose of the rule is not to limit activities in the circumstances outlined in condition (1)(b) given their specific nature.
- 9.3.15 The reporting planner recommended accepting in part Federated Farmers' submission (S121.030) that sought several amendments to the Rule. In particular, with respect to Federated Farmers' request to delete the requirement for certification by a qualified arborist in condition (1)(b)(ii), Ms Morgan was of the view that retaining provision Rule ECO-R3(1)(a) provides for those smaller scale circumstances where an arborist may not be required. However, for larger scale removal of deadwood, wind-thrown trees, or chronically diseased indigenous vegetation, she remained of the view that it is appropriate to require such certification.

- 9.3.16 With respect to Federated Farmers request to broaden the terms of pest control in condition (1)(b)(iv), Ms Morgan acknowledged the important role of farmers in these endeavours, and for this reason she recommended the following amendments that may go some way to meeting Federated Farmers concerns. She also noted that condition (1)(a) permits small amounts of trimming and clearance on an annual basis, which could also be applied for this purpose.

**ECO-R3(1)(b)(iv)**

iv. required for pest control undertaken by or in conjunction with the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council, or by landowners and personnel working with these organisations for this purpose; and or for removal of material infected by an unwanted organism under the Biosecurity Act 1993.

- 9.3.17 With respect to Federated Farmers' request for additional provisions in condition (1)(b) to provide for the construction and maintenance of stock crossings and bridges, and to provide for firebreaks, Ms Morgan considered it reasonable to provide for the maintenance and safety of these types of activities but was of the view that new infrastructure or firebreaks could have considerable effects, and scrutiny via a resource consent process in these cases, is appropriate.
- 9.3.18 The reporting planner recommended rejecting Kathryn Bayliss's submission (S39.004) that sought to prohibit trimming and clearance except in the circumstances outlined in condition (1)(b). Ms Morgan stated that the PDP sought to impose tight limits to trimming and clearance in areas of significant indigenous vegetation and significant habitats of indigenous fauna but provide a less restrictive regime to other indigenous vegetation and habitat.

**Rule ECO-R4 Trimming or clearance of indigenous vegetation outside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna**

- 9.3.19 The reporting planner recommended accepting the submissions from Transpower (S79.065), FENZ (S57.063), and HBRC (S11.042) that sought to retain Rule ECO-R4.
- 9.3.20 The reporting planner recommended rejecting the following submissions:
- DOC's submission (S64.065) that sought to reduce the limit of clearance;
  - Kathryn Bayliss's submission (S39.005) that sought that clearance of indigenous vegetation, except for the activities allowed in Rule ECO-R3(1)(b) should be prohibited, and that trimming should otherwise be discretionary;
  - Federated Farmers submission (S121.031) that sought to make the clearance and trimming of manuka and kanuka and all other indigenous vegetation outside of a SNA be unlimited as a permitted activity; and
  - Forest & Bird's submission (S75.041) that sought further checks to ensure an area is not 'significant' and does not meet the 'Ecological Significance Determination Criteria' in Appendix ECO-APP1.
- 9.3.21 Ms Morgan explained that Rule ECO-R4 applies to those areas of significant indigenous vegetation and significant habitat of indigenous fauna that may not have been captured by the district wide assessment as presented in the reports from Council's ecologist Mr Kessels. Whilst most of these areas are likely to have been captured, it recognizes and acknowledges the inherent limitations of a desktop assessment and therefore provides protection for remaining areas that may have been missed. Given the extensive mapping work that has been completed and noting that ground-truthing of such large areas is impractical in a District the size of Central Hawke's Bay, she was

satisfied that Rule ECO-R4 and the thresholds as proposed are appropriate, and in the context of the wider rule framework will achieve the purpose of section 6(c) of the RMA, being the protection of the District's areas of significant indigenous vegetation and significant habitats of indigenous fauna.

**Rule ECO-R5 Trimming or clearance of indigenous vegetation not otherwise provided for**

- 9.3.22 The reporting planner recommended accepting Forest & Bird's submission (S75.042) that sought to retain Rule ECO-P5.
- 9.3.23 The reporting planner recommended rejecting Federated Farmers' submission (S121.032) that sought to delete the rule. She also recommended rejecting Kathryn Bayliss's submission (S39.006) that sought that clearance of indigenous vegetation, except for the activities allowed in Rule ECO-R3(1)(b) should be prohibited, and that trimming should be discretionary, except for the activities allowed in Rule ECO-R3(1)(b).
- 9.3.24 Ms Morgan stated that whilst most scenarios will likely be captured under other Rule ECO rules, this rule provides a backstop for unforeseen situations that may not be caught by the other rules and for this reason she considered it should be retained. She stated that doing so will provide more certainty in recognizing and providing for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as required by section 6(c) of the RMA.

**Rule ECO-R6 Trimming or clearance of indigenous vegetation which forms part of any natural wetland identified as a SNA in Rule ECO-SCHED5**

- 9.3.25 The reporting planner recommended accepting in part Forest & Bird's submission (S75.043) that sought to retain the rule. This recommendation is subject to amendments in response to other submissions.
- 9.3.26 The reporting planner recommended accepting HBRC's submission (S11.019) that sought to include a note about wetland restoration work. Ms Morgan agreed that a note would clarify the interpretation of this rule for restoration works within a wetland, as the maintenance and enhancement of ecosystems in waterbodies is a function of regional councils' (RMA s30(1)(c)(iia)). The note would be worded as follows:

**Note: Wetland restoration work managed by the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council is regulated by the Regional Resource Management Plan and the NES Freshwater 2020 and therefore exempt from this rule.**

- 9.3.27 The reporting planner recommended accepting in part Transpower's submission (S79.066) that sought to provide a discretionary activity status for tree trimming and clearance necessary to provide for the 'ongoing safe and efficient operation, maintenance and upgrading of network utilities, but excluding their expansion, where carried out by the respective network utility operator'. Ms Morgan stated that given the NES-ET and NES-FM, she agreed that the stricter status of 'non-complying' for such activities, is not warranted. However, rather than imposing a specific rule, to be consistent with the approach to NES-FM outlined above, she recommended adding a note that cross-referenced these regulations as follows:

**ECO-R6 Trimming or clearance of indigenous vegetation which forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5**

All Indigenous Vegetation Species	<p>1. Activity Status: NC</p> <p>Where the following conditions are met: N/A</p> <p><u><i>Note (1): This rule does not apply to vegetation clearance associated with construction of, and ongoing safe and efficient operation, maintenance and upgrading of a network utility, but is subject to the (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA)(refer Regulations 30, 31 and 32), and/ or Resource Management (National Environmental Standards for Freshwater) Regulations,2020 (NES-FM), (refer Regulations 46 &amp;47).</i></u></p>	<p>2. Activity status where compliance not achieved: N/A</p>
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- 9.3.28 The reporting planner recommended rejecting Federated Farmers' submission (S121.033) that sought that it be deleted in its entirety and that a provision is provided in Rule ECO-R3 that permits some activities within a wetland SNA. Ms Morgan did not consider there is any advantage in deleting Rule ECO-R6 and amending Rule ECO-R3 as sought. ECO-R6 specifically relates to natural wetlands that have been identified and listed as SNA in the PDP and is not intended to capture other types of wetland areas.
- 9.3.29 The reporting planner recommended rejecting Kathryn Bayliss's submission (S39.007) that sought to prohibit clearance of indigenous vegetation, except for the activities allowed in Rule ECO-R3(1)(b), and to make trimming a discretionary activity. Ms Morgan recommended this submission be rejected for the same reasons as outlined above: i.e., that the rule framework as proposed, in her view, satisfied the tests of section 6(c) and to prohibit clearance and only allow for trimming as proposed by this submitter goes beyond what is intended by the RMA.

#### Proposed New Rule ECO-RXX

- 9.3.30 The reporting planner recommended rejecting Hort NZ's submission (S81.073) that sought to add a new rule that enables a biosecurity response involving indigenous vegetation clearance, where that vegetation is infected by an unwanted organism as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act.
- 9.3.31 She noted that the term 'biosecurity response' was not defined, and it was not clear what type of action would be involved. As such, it was not possible to assess the benefits of the proposed exemption against the potential adverse effects that might arise from it.
- 9.3.32 Section 7A of the Biosecurity Act also provides for the responsible Minister to exempt certain actions under that Act from the need to comply with the RMA. That power could only be exercised in certain circumstances, including that the organism had the potential to cause significant economic loss, significant adverse effects on human health or significant environmental health if it became established. Given that Parliament had specifically turned its

mind to the relationship between the RMA and the Biosecurity Act and had chosen to limit the circumstances where a biosecurity response overrode the RMA, Ms Morgan considered it appropriate to rely on those provisions rather than to provide a blanket exemption.

## 9.4 Evidence to the Hearing

### Clarification of relationship of rules to plantation forestry

- 9.4.1 The response of the reporting planner to the submission from Rayonier and Ernslaw is outlined above in paragraphs 9.3.1 - 9.3.4. The submitter confirmed agreement with her recommended solution.

### Rule ECO-R1 Trimming or clearance of indigenous vegetation within certain areas

- 9.4.2 FENZ submitted planning evidence from Paul McGimpsey to the Hearings Panel. Mr McGimpsey stated that FENZ supported ECO-R1 – R4 to the extent that these proposed rules provide for the preventative mitigation of fire risk to property and life through providing for the trimming or clearance of indigenous vegetation within specified areas as a permitted activity. This would enable property owners and occupiers to remove flammable vegetation as required. It stated this is particularly important where property is located outside of a reticulated water network.
- 9.4.3 HBRC submitted a written statement to the Hearings Panel, agreeing with the reporting planner's recommendations.
- 9.4.4 Hort NZ submitted a written statement to the Hearings Panel, agreeing with the reporting planner's recommendations.
- 9.4.5 Forest & Bird tabled a statement to the Hearing. The submitter was concerned that the inclusion of "plantation forest undergrowth" clearance as a permitted activity could result in adverse effects that are inconsistent with provisions on the protection of areas meeting the significance criteria in ECO-P1, and would be inconsistent with the NZCPS in the coastal environment. Forest & Bird sought to exclude trimming or clearance of indigenous vegetation within plantation forestry undergrowth from Rule ECO-R1 so that it is considered under the subsequent rules. It also sought to add a note to clarify that trimming or clearance of indigenous vegetation within planted indigenous forestry is subject to NES-PF Regulations 93(2) and (3).

### Rule ECO-R2 Trimming or clearance of indigenous vegetation that has naturally re-grown on land that was cleared within the previous 15 years

- 9.4.6 FENZ submitted planning evidence to the Hearings Panel that generally addressed the ECO rules (refer to paragraph 9.4.2 above).
- 9.4.7 HBRC submitted a written statement to the Hearings Panel, agreeing with the reporting planner's recommendations.
- 9.4.8 Forest and Bird tabled a statement to the Hearing. It disagreed with the officer's position that the rule need not be strengthened, contending that, potentially under the rule, a large area of regenerating native bush could be cleared in its entirety as a permitted activity, or an area could effectively be cleared with only 'large' trees left. Forest & Bird considered this to be a serious loophole which could mean a succession of large trees will never be able to occur as the



understorey (along with its valuable functions as habitat) could continually be cleared. The submitter also contended that it may also mean that areas of indigenous vegetation may never actually regenerate to their full potential as restoration is prevented by ongoing clearance (e.g. because trees take so long to reach 30cm in diameter and can be cleared before reaching that size). While Forest & Bird accepted that some clearance can be permitted, conditions are needed to ensure that the adverse effects of doing so are no more than minor. It suggested the introduction of further permitted activity conditions to address these concerns.

**Rule ECO-R3 Trimming or clearance of indigenous vegetation inside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands)**

- 9.4.9 FENZ submitted planning evidence to the Hearings Panel that generally addressed the ECO rules (refer to paragraph 9.4.2 above).
- 9.4.10 HBRC submitted a written statement to the Hearings Panel. It did not agree with the reporting planner's recommendation to reject its submission to delete condition 1(a) in its entirety from Rule ECO-R3. It expressed concern that, year upon year upon year, any person could remove a substantial amount of potentially mature indigenous vegetation, regardless of need or purpose of that clearance. However, HBRC considered that the small amendment recommended by the reporting planner now made more sense, in that, importantly, it now requires any such clearance to be clearly linked to at least one of the purposes listed in condition 1(b). It submitted that linkage is very important for the Panel to adopt the recommended amendment as it will define what Rule ECO-R3 permits, if condition 1(a) is not deleted in its entirety. The Council considered, however, that the amendment would still not prevent a person from clearing up to 500m<sup>2</sup> of mature indigenous vegetation in any 12-month period, year upon year, as a permitted activity.
- 9.4.11 Tom Kay, for Forest and Bird, tabled a statement to the Hearing, in which he outlined his remaining concerns with this rule, notwithstanding the recommended amendment. These concerns related to the potential for ongoing clearance year by year as a permitted activity. Additionally, with respect to the recommended amendment to ensure that both condition (a) and (b) apply to all activities under this rule, he noted it is not clear from the officer's report whether she agreed with this change.
- 9.4.12 Mr Kay also stated that, concerning the rural fence metre setback distance further submission, Forest & Bird's concern was with the thresholds for which the consenting process should be triggered. He accepted that fencing was a requirement on farms, but considered the proposed clearance allowance along fence lines too significant. He also considered that not having an overall threshold to trigger an assessment through the resource consent process is a concern. Mr Kay suggested the clearance distance should just be 2 metres and that a total overall threshold should also apply.
- 9.4.13 Ms Dasent, for Federated Farmers, submitted evidence to the Hearings Panel on this matter. She stated that the organisation sought to remove the need for an arborist in complying with ECO-R3(b)(ii). She acknowledged that the Section 42a Report (in paragraph 10.3.71) says that Rule ECO-R3(1)(a) provides for those smaller scale circumstances where an arborist may not be required, which she conceded is good to know. Ms Dasent agreed that this provision would allow landowners to do such work themselves within the 500m<sup>2</sup> area limit. She supported the recommended amendment to this rule. Ms Dasent stated that, with an increasing desire to



protect water quality by constructing stock crossing, bridges, and stock exclusion fencing, permitting these as new activities was also necessary.

- 9.4.14 Ms Dasent acknowledged that the rules do make clearance or trimming in accordance with a QEII covenant a permitted activity, but considered it is still regulation. She believed the QEII covenants and other protective covenants are a lot stronger protection than those controls then the PDP could provide, as well as a level of closer supervision.
- 9.4.15 Kathryn Bayliss submitted a written statement to the Hearings Panel, in which she stated that, if trimming and clearance was permitted in certain circumstances, there would be no control over the risk that significant indigenous vegetation, including mānuka and kanuka, would be cleared. She considered that, if owners wanted to clear or trim areas of indigenous vegetation, they should have to have them inspected and ground-truthed first.
- 9.4.16 Ms Bayliss highlighted that regenerated mānuka and kanuka and other shrubs and trees assist in erosion control, as well as having an important role in absorbing rain and preventing flooding. She considered that we must protect and restore existing natural indigenous forests and trees to help stop climate change and loss of biodiversity, and that allowed the clearance of indigenous vegetation, even if it only was a certain area each year, would negate much of the work done to date. Over the years, and over different properties, she considered this level of clearance could add up to significant loss. To support her statement, Ms Bayliss provided articles on climate change and agriculture with her statement, along with a review of *Leptospermum scoparium* (Myrtaceae) in New Zealand, a copy of the Leader's Pledge for Nature, and the Glasgow Leaders' Declaration on Forests and Land Use.

**Rule ECO-R4 Trimming or clearance of indigenous vegetation outside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna**

- 9.4.17 FENZ submitted planning evidence to the Hearings Panel that generally addressed the ECO rules (refer to paragraph 9.4.2 above).
- 9.4.18 HBRC submitted a written statement to the Hearings Panel, in which it agreed with the reporting planner's recommendations.
- 9.4.19 Tom Kay, for Forest and Bird, tabled a statement to the Hearing in which he stated that it is unclear how a plan user determines that clearance under ECO-R4 is outside of an area of significant indigenous vegetation and/or significant habitat of indigenous fauna. He thought that this may require an assessment to ensure the area does not meet the criteria in ECO-P1. However, he considered that this may be difficult to manage at the permitted activity level for both those wanting to undertake the activity and for Council enforcement. He considered that the conditions need rewording to ensure that large areas of vegetation were not cleared, with only the large trees left standing.
- 9.4.20 Rhea Dasent, on behalf of Federated Farmers, submitted evidence to the Hearings Panel. She stated that limits to trimming and clearance of indigenous vegetation outside SNAs were unnecessary, because the SNA regime more than adequately meets RMA Section 6(c) obligations. She noted that the Section 42a Report acknowledged the inherent limitations of a desktop assessment and therefore provides protection for remaining areas that may have been missed. She disagreed with that approach, and considered that, with 542 SNAs identified, a thorough

assessment of significance has been undertaken, and the Council should be satisfied that it has done a comprehensive search for sites that will be protected as an RMA Section 6 matter.

Rule ECO-R6 Trimming or clearance of indigenous vegetation which forms part of any natural wetland identified as a SNA in Rule ECO-SCHED5

- 9.4.21 HBRC submitted a written statement to the Hearings Panel, in which the Council agreed with the reporting planner's recommendations.
- 9.4.22 Rhea Dasent, representing Federated Farmers, submitted evidence to the Hearings Panel. She noted that, in response to other submitters, the reporting planner acknowledges that there are some activities that will be appropriate within a wetland: recommended Note 1 exempting wetland restoration work by DOC, HBRC or CHBDC, and Note 2 exempting operation, maintenance and upgrading of a network utility. Ms Dasent contended that the exemptions in Note 1 need to extend to the same restoration activity undertaken by landowners. She noted, for example, that landowners may be acting with QEII National Trust to restore their wetland, or be acting in accordance with the Regional Pest Management Plan controlling aquatic pests and weeds. Additionally, she considered that the exemptions in Note 2 need to extend to other activities such as for safety and to maintain existing infrastructure such as roads, tracks, bridges and fences. Ms Dasent contended that an effects-based rule would recognise that the adverse effect of clearing to keep a power line operational and safe will be the same as clearance to keep a fence or road operational and safe.
- 9.4.23 Ms Dasent also tabled presentation notes to the Hearings Panel at the hearings. She questioned whether this matter would be best left to the HBRC to manage, and remove ECO-R6. Alternatively, she said that Federated Farmers will continue to seek the expansion of Note 1 for restoration activity undertaken by landowners, the same as restoration undertaken by DOC, HBRC or CHBDC.
- 9.4.24 When asked about how the PDP could be aligned with HBRC requirements if this rule was removed, Ms Dasent replied that the district plan was developed in the absence of the current NPS-FM or the NES-FM. With this extra emphasis on wetlands, she thought the council might not want to duplicate those kinds of regulations, and she did not want to have a situation where farmers are sandwiched between HBRC and CHBDC rules. She also did not want any inconsistencies or rules that are based on who is doing the activity rather than what the activity is.

#### Proposed New Rule ECO-RXX

- 9.4.25 Hort NZ provided a written statement to the Hearings Panel, in which the organisation sought to clarify the types of actions that might be involved in a biosecurity response. Hort NZ recognised the relief sought in its original submission had been partially addressed by Rule ECO-R3(b)(iv) which includes the sentence 'removal of material infected by an unwanted organism under the Biosecurity Act'. The organisation suggested that an alternative relief to what was sought in its original submission would be to include an equivalent provision in ECO-R4.
- 9.4.26 This matter was addressed by the reporting planner, Ms Morgan, in her statement of supplementary planning evidence to the Hearings Panel. Having considered Hort NZ's evidence, she was satisfied that there are occasions where a biosecurity response will be required that would not be deemed an emergency under the Biosecurity Act. Therefore, she agreed that an

amendment to the ECO-Rules to address this would be appropriate. This matter highlighted to Ms Morgan that there was an unintended 'gap' in the PDP Rules with respect to Rule ECO-R4. She stated that the purpose of Rule ECO-R4 is to capture any areas of 'significant indigenous vegetation and / or significant habitat of indigenous fauna' that may have been missed in the desktop review. However, the series of exemptions provided for ECO-R3, including the biosecurity response exemption, has not been applied equally to ECO-R4, despite the same issues arising. Ms Morgan considered this to be an oversight, but she was amenable to correcting omission as a consequential amendment arising from the Hort NZ submission.

- 9.4.27 In her opinion, the reporting planner considered the exemptions could usefully be relocated to a new rule ECO-R1A meaning if an activity complies with this, whether within or outside a SNA, it is a permitted activity. If the activity does not fit within one of the exemptions, rules ECO-R2 – ECO-R6 apply. She considered this slight restructuring would assist with the interpretation of the PDP, and would ensure exemptions to the rules apply equally to trimming or clearance of indigenous vegetation regardless of its location.

## 9.5 Post-Hearing Information

- 9.5.1 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. In relation to this report the Panel requested that the following activities be undertaken:
- That the reporting planner conference with the relevant parties that submitted on Rule ECO-R3 to address:
    - whether the Rule can be amended to avoid or mitigate the potential cumulative effects of the potential annual clearance of indigenous vegetation permitted under it; and
    - whether there should be an "AND" or an "OR" between Rule ECO-R3 conditions (a) and (b) – that is, whether the conditions should be conjunctive or disjunctive.
  - That the reporting planner provide a written right-of-reply.

### Expert Conferencing of Rule ECO-R3

- 9.5.2 Expert Conferencing on this matter took place on 27 April 2022, and was facilitated by Janeen Kydd-Smith of Sage Planning.
- 9.5.3 Representatives of the following parties which submitted on proposed Rule ECO-R3 participated in the Expert Conferencing:
- Forest and Bird;
  - HBRC;
  - Hort NZ;
  - Federated Farmers; and
  - CHBDC.
- 9.5.4 In Ms Morgan's summary of the conferencing, she stated that, while the merits or otherwise of amendments to Rule ECO-R3(1)(a)(i) to address cumulative effects of potential annual clearance of indigenous vegetation were discussed, no parties (other than the suggestion proposed by the

reporting planner in the pre-circulated memo attached) offered any alternatives for consideration, and no alternatives were agreed. The witnesses essentially maintained their various positions on these provisions as outlined in their submissions and evidence at the hearing.

- 9.5.5 As a result of joint witness conferencing only minor matters of clarification were agreed by the participants. Ms Morgan recommended that the following minor change (as outlined in red bold underline) suggested by conferencing participants be adopted:

**ECO-R3 Trimming or clearance of indigenous vegetation inside any areas of significant indigenous vegetation and/or significant habitat of indigenous fauna identified as a Significant Natural Area in ECO-SCHED5 (excluding natural wetlands)**

All Indigenous Vegetation Species	1. Activity Status: PER	2. Activity status where compliance not achieved: DIS
	<p><b>Where the following conditions are met:</b></p> <p>a. Limited to (whichever is the lesser):</p> <p>i. clearance of no more than 500m<sup>2</sup> of indigenous vegetation per site <b><u>Significant Natural Area identified in ECO-SCHED5</u></b> per calendar year;</p> <p>or</p> <p>ii. clearance of no more than 1% of the area of a Significant Natural Area identified in ECO-SCHED5 per calendar year.</p> <p>OR</p> <p>b. Limited to trimming or clearance that is <b><u>required for any of the following purposes:</u></b></p> <p>i. required to achieve compliance with the requirements of the Electricity (Hazards from Trees) Regulations 2003; or</p> <p>ii. required to remove deadwood, wind-thrown trees, or chronically diseased indigenous vegetation, where an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that the indigenous vegetation is no longer independently viable or poses a risk; or</p> <p>iii. carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or a Reserve Management Plan approved under the Reserves Act 1977; or</p> <p>iv. required for pest control undertaken by <b><u>or in conjunction with</u></b> the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council, <b><u>or by landowners and personnel working with these organisations for this purpose;</u></b> and <b><u>or</u></b> removal of material infected by an unwanted organism under the Biosecurity Act 1993; or</p> <p>v. necessary to avoid an imminent threat to the safety of persons or of damage to lawfully established buildings or structures; or</p> <p>vi. necessary to provide for the ongoing safe and efficient operation, maintenance and upgrading of telecommunication, radio communication and other</p>	

- network utilities, but excluding their expansion, where carried out by the respective network utility operator; or
- vii. necessary to provide for the maintenance and safe and efficient operation of existing tracks, **stock crossing and bridges**, drains, **firebreaks**, formed public roads, private accesses, driveways, right of ways and walkways; or
  - viii. necessary to maintain buildings, provided that the trimming or clearance of vegetation is limited to within 3 metres of a wall or roof of a building; or
  - ix. required to construct new fences (including post holes) to exclude stock and/or pests from the area of indigenous vegetation, or to maintain existing fences, provided that the trimming or clearance does not exceed 2 metres in width either side of the fence line; or
  - x. for use by tangata whenua for cultural purposes (e.g., for Rongoā, Waka, traditional buildings and marae-based activities) and does not result in the removal of more than 25m<sup>3</sup> of timber per site per 10-year period.

*Note (1): The Council recommends that trimming or clearance of indigenous vegetation is carried out by an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification.*

*Note (2): Any trimming or clearance work within the vicinity of a network utility should be undertaken by a network utility approved arborist.*

*~~Note (3): Afforestation and vegetation clearance of indigenous vegetation associated with plantation forestry, is subject to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.~~*

#### Right of Reply – Rule ECO-R1

- 9.5.6 Having further clarified the status of the NES-PF, Ms Morgan stated that it is now her understanding that, with respect to clearance of indigenous vegetation within an identified SNA, the NES-PF defaults to the PDP (rather than a 'restricted discretionary' consent under the NES-PF), with the exception being the clearance of a forestry track described in Reg 93(2)(d). She therefore considered ECO-R1 should be amended to reflect this and recommend an amendment to the rule to clarify this situation.

#### Right of Reply – Rule ECO-R2

- 9.5.7 In her right-of-reply, Ms Morgan did not change her position from that which is set out in Key Issue 7 ECO-Rules of her Section 42A Report. She considered that, while most of these areas are likely to have been captured by the desktop analysis, the rules have to recognise the inherent limitations of a desktop assessment and therefore provide protection for remaining areas that may have been missed. She considered the rules also need to protect manuka and kanuka, recognising the threats to these species posed by myrtle rust.

- 9.5.8 Ms Morgan stated that the PDP rule framework does not seek to regulate small clusters of indigenous vegetation, but rather seeks to focus on more mature vegetation and vegetation that meets the criteria of significance. To further assist the Hearings Panel in clarifying how the rule framework is intended to apply, she provided a flow diagram as well as a summary about how the rules are intended to work.
- 9.5.9 With respect to Rule ECO-2 (and Rule ECO-R4) she noted Mr Kay's comments (for Forest & Bird) and his request for additional permitted activity conditions. Ms Morgan considered that if the more restrictive permitted activity conditions were applied as sought by Forest and Bird, this would change the underlying intent of the PDP which is to only regulate areas of significant indigenous vegetation and significant habitats of indigenous fauna, in accordance with s6(c), and use other non-regulatory methods to protect the district's broader indigenous vegetation values.

#### Right of Reply – Rule ECO-R3(1)(b)

- 9.5.10 Ms Morgan commented on the various decisions sought by Forest & Bird as outlined in Mr Kay's speaking notes. She did not change her position from that which is set out in Key Issue 7 ECO-Rules of her Section 42A Report.

#### Right of Reply – Rule ECO-R4

- 9.5.11 Ms Morgan also did not change her position with respect to the permitted activity conditions from that which is set out in Key Issue 7 ECO-Rules of the Section 42A Report. She did, however, consider amendments to Rules ECO-R3 and ECO-R4 will help clarify when respective rules apply. For that reason, she changed her recommendation to S75.041 from 'reject' to 'accept in part'.

#### Right of Reply – Rule ECO-R5

- 9.5.12 After reviewing the rules and clarifying how they work as set out in the flow chart in Appendix 4 of her written right-of-reply, Ms Morgan considered that trimming and clearance of indigenous vegetation will be captured by rules ECO-R1- ECO-R4 and ECO-R6 and that ECO-R5 is superfluous and can be deleted.
- 9.5.13 For the reasons outlined in her right-of-reply she changed her recommendation to submission point S121.032 Federated Farmers from 'reject' to 'accept'.
- 9.5.14 This change also affects her recommendation to several submissions.

#### Rule Simplification

- 9.5.15 In response to a direction from the Hearing Panel (Minute dated 27 June 2022), the reporting planner provided a redrafted rule structure that seeks to reduce the duplication between ECO-R1A and ECO-R3 by amending as follows:
- Rule ECO-R1A
    - The name of Rule ECO-R1A has been amended to provide for 'Specified trimming and clearance of indigenous vegetation (excluding where it forms part of any natural wetland identified as a SNA in ECO-SCHED5)', regardless of whether it is identified as SNA or not. It provides for a limited range of activities as set out in ECO-R1A(a)(i) to

occur as permitted activities (Rule ECO-R1A previously only provided for these activities to occur outside any area identified as a SNA).

- Rule ECO-R3
  - As a consequence of the amendments to Rule ECO-R1A, the list of specified trimming and clearance activities has been removed from Rule ECO-R3.
- Amendment to Rule titles ECO-R1, ECO-R2
  - A minor amendment to rule headings Rules ECO-R1 and ECO-R2 is also recommended to further clarify that these rules also do not apply to SNA wetlands.

- 9.5.16 The reporting planner recommended no other changes to the ECO rules from her 4th May right-of-reply. The reporting planner did note that her recommended changes would not affect the substance of the agreement with respect to the ECO-rules reached through expert conferencing (as reported on in the 4th May right-of-reply).

## 9.6 Evaluation and Findings

### Clarification of relationship of rules to plantation forestry

- 9.6.1 We agree with the reporting planner's recommendation to accept in part Rayonier submissions (S85.008 and S85.009). Accordingly, we recommend the wording that was agreed between the parties in Council's Memorandum of Counsel.

*Note – Plantation Forestry Activities - In the case of conflict with any rule in this Chapter, the provisions of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, (NES-PF) particularly regulations 93 and 94, apply instead of the rule.*

*For the avoidance of doubt, the NES-PF does not apply to the following activities, and they are therefore subject to the rules in this chapter:*

- *Vegetation clearance of indigenous vegetation that occurs before afforestation (see Reg 5(3));*
- *Vegetation clearance of indigenous vegetation within a significant natural area, except that clearance of a forestry track described in Reg 93(2)(d) NES-PF, or incidental damage described in Reg 93(5), are covered by the NES-PF under Reg 93 or 94).*

- 9.6.2 We agree with the reporting officer's consequential recommendation to delete the note on Rule ECO-R3.
- 9.6.3 We agree with the reporting planner's recommendation to accept in part Ernslaw's submissions (S132.002, S132.003, and S132.004). Noting the recommendations above that Ms Morgan considered that the note at the start of the ECO-Rules that clarified the relationship of the PDP rules with NES-PF, thereby addressing the submitter's concerns.

### Rule ECO-R1 Trimming or clearance of indigenous vegetation within certain areas

- 9.6.4 The Panel agrees with the reporting planner's recommendation to reject Federated Farmer's submission (S121.028), for the reasons outlined in the corresponding s42A report. The Panel is

also concerned that some of the suggested amendments may conflict with the Regional Resource Management Plan and its approach to the management of riparian planting.

- 9.6.5 We agree with the reporting planner's recommendation to accept in part the submissions of Ernslaw (S132.001), FENZ (S57.060), HBRC (S11.040), Hort NZ (S81.072), and Rayonier (S85.007) that sought to retain Rule ECO-R1.
- 9.6.6 The Panel agrees with the reporting planner's recommendation to accept in part Forest & Birds submission (S75.038) for the reasons outlined above and, in the right-of-reply dated 18 April 2022.

Rule ECO R2 Trimming or clearance of indigenous vegetation that has naturally re-grown on land that was cleared within the previous 15 years

- 9.6.7 We agree with the reporting planner's recommendation and reasons to accept in part the submissions of HBRC (S11.041), FENZ (S57.061), and Federated Farmers (S121.029) to retain Rule ECO-R2 whether in full or in part.
- 9.6.8 We agree with the reporting planner's recommendation to reject Forest & Bird's submission (S75.039) for the reasons contained in the relevant s42a report.
- 9.6.9 We agree with the reporting planner's recommendation to reject Kathryn Bayliss's submission (S39.003) for the reasons contained in the relevant s42A report.

Rule ECO-R3 Trimming or clearance of indigenous vegetation inside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands)

- 9.6.10 Based on all the evidence before us, we recommend that ECO-R3(1)(a) be amended, and the amendment be made to ECO-R3(1)(b) as recommended in the right-of-reply dated 19 August 2022.
- 9.6.11 ECO-R3(1)(a) potentially allows for cumulative loss of indigenous biodiversity over time. The Panel agrees with HBRC's concern that 'year upon year' a substantial amount of indigenous vegetation could be cleared. The absolute entitlement to undertake a yearly quota of clearance of SNA does sit somewhat uneasily with s6(c) of the RMA and the PDP objectives and policies that seek to give effect to that requirement. We recommend amendments to ECO-R3(1)(a) to remove the references to 'calendar year' so that clearance cannot continue yearly and will be capped at 500m<sup>2</sup> or 1%, whichever is the lesser per site. We also agree with the recommendation of the supplementary Council reply on expert conferencing on Rule ECO-R3 dated 4 May 2022 to amend ECO-R3(1)(a) to reference the SNAs identified in ECO-SCHED5 rather than referring to them as a 'site'. This provides clarity to plan users and maintains consistency between ECO-R3(1)(a)(i) and ECO-R3(1)(a)(ii).
- 9.6.12 We therefore recommend that HBRC's (S11.018) and Forest & Birds (S75.040) submissions be accepted in part.
- 9.6.13 We agree with the reporting planner to accept in part Federated Farmers' submission (S121.030) for the reason outlined above and in the corresponding s42A report. We do note that the amendments recommended are now located in Rule ECO-R1A.
- 9.6.14 We note that the reporting planner accepts Waka Kotahi's submission S78.005 to retain ECO-R3(1)(b)(vi) and Note (1) as written, however we have recommended amendments to this



provision (now Rule ECO-R1A(1)(a)(vi) in Report 7A, key issue 11. We now consider that S78.005 is accepted in part.

**Rule ECO-R4 Trimming or clearance of indigenous vegetation outside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna**

- 9.6.15 We agree with the amendments recommended by the reporting planner in her right-of-reply dated 18 April 2022 for the reasons she sets out. This recommendation therefore changes the recommendation to accepting Forest & Bird's submission (S75.041) in part. We note the changes recommended to the heading of ECO-R3 would also partially address DOCs submission point (S64.064) regarding clarification of whether the rule applies to all indigenous vegetation or only that contained within SNAs.
- 9.6.16 The submissions from Transpower (S79.065), FENZ (S57.063), and HBRC (S11.042) that sought to retain Rule ECO-R4 also are recommended to be accepted in part.
- 9.6.17 As for the other submissions on this rule, DOC's submission S64.065 is now recommended to be accepted, and both Kathryn Bayliss (S39.005) and Federated Farmers (S121.031) are recommended to be rejected.

**Rule ECO-R5 Trimming or clearance of indigenous vegetation not otherwise provided for**

- 9.6.18 We agree with the reporting planner's recommendation in her right-of-reply dated 18 April 2022 to accept Federated Farmers' submission (S121.032) to delete Rule ECO-R5 for the reasons outlined above and, in the right-of-reply.
- 9.6.19 As a result, we agree with the reporting planner's recommendation to reject Forest and Bird's (S75.042) and Kathryn Bayliss' (S39.006) submissions.

**Rule ECO-R6 Trimming or clearance of indigenous vegetation which forms part of any natural wetland identified as a SNA in Rule ECO-SCHED5**

- 9.6.20 The Panel agrees with the reporting planner's recommendation to retain this rule (Forest and Bird's submission (S75.043)) and to add two advisory notes in response to submissions from HBRC (S11.019 regarding wetland restoration work) and Transpower (S79.066 in regard to NES-ET).
- 9.6.21 In the Panel's recommendation to retain this rule, we took into account Federated Farmers tabled statement at the hearing that stated that the NPS-FW and NES-FW provided the regulatory framework for managing wetlands. The Panel did consider how this rule interacts with the NPS-FW and NES-FW. However, the Panel also considered the memo provided by Mr Kessels in Appendix C of the corresponding s42A reports, with particular regard to section 6.3 'definition of wetland/natural wetland'. Mr Kessels states that "the NPS-FM definition for a wetland does not necessarily mean a wetland will meet the threshold for an ecologically significant wetland in terms of section 6(c) of the RMA".
- 9.6.22 The Panel accepts in part Federated Farmers submission. We recommend that ECO-R6 is retained to ensure that those wetlands considered significant in the PDP, but which may not meet the definition of a wetland under the NPS-FM are protected. However, to provide clarity for plan users the Panel recommends that another note is inserted. The note recommended is as follows:

**Note (3): This does not apply to trimming or clearance of vegetation that requires consent under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.**

- 9.6.23 We therefore recommend accepting the submission of Federated Farmers (S121.033) in part, and rejecting the submission of Kathryn Bayliss (S39.007)) for the reasons outlined above.
- 9.6.24 As a result, consequential changes have been made to Rules ECO-R1, ECO-R1A, and ECO-R2 to clarify that they do not apply to wetlands identified as SNAs.

#### Proposed New Rule ECO-R1A

- 9.6.25 We agree with the reporting planner's supplementary evidence that recommends relocating Rule ECO-R3(1)(b) to the insertion of new rule, ECO-R1A (subject to the simplification she recommended in her supplementary reply), thereby accepting Hort NZ's submission (S81.073). In line with our recommendation on new Policy ECO-P1 (refer Key Issue 6), we recommend a further amendment to this new rule to clarify the extent to which Rule ECO-R1A(1)(a)(iii) exempts trimming or clearance that is "carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1987 or Queen Elizabeth the Second National Trust Act 1977; or a Reserve Management Plan approved under the Reserves Act 1977 **(including Ngā Whenua Rāhui Kawenata [covenants] created under either s77A Reserves Act 1977 or s27A Conservation Act 1987).**"

#### Rule Structure

- 9.6.26 The Panel accepts the final structure of the ECO rules as recommended by the reporting planner in her 19 August 2022 response to Minute 10.

## 10 Key Issue 8 – Other Matters

### 10.1 Proposed Plan Provisions

- 10.1.1 This key issue addresses 'Other Matters', including submissions on 'Assessment Matters', 'Other Methods' and 'Anticipated Environmental Results' provisions of the 'Natural Environment Values' chapter of the PDP.

### 10.2 Submissions

- 10.2.1 There were 15 original submission points and no further submission points on this key issue.
- 10.2.2 Matters raised include:
- A request to include a new 'Assessment Matter' to address potential fire risk;
  - A request to include a new 'Assessment Matter' relating to consideration of indigenous biodiversity adjacent to SNA;
  - Clarification sought with respect to Method ECO-M3 as to where/when rates relief or other financial assistance would be granted; and
  - Request to delete Anticipated Environmental Result ECO-AER5, or amend to clarify how it fits in to the framework of the ECO chapter.

### 10.3 Reporting Planner's Recommendations

#### Assessment Matters

- 10.3.1 The reporting planner recommended accepting in part the submissions of DOC (S64.066) and Forest and Bird (S75.044) that sought to retain assessment matter ECO-AM1 (noting this assessment matter is subject to amendments from other submissions).
- 10.3.2 The reporting planner recommended rejecting FENZ's submission (S57.064) that sought to include a new assessment matter to assess the trimming and removal of vegetation for the purpose of fire risk management. While the reporting planner thought that it did not seem unreasonable in principle that consent may be required on occasion for trimming and clearance of areas of significant indigenous vegetation and significant habitats of indigenous fauna to provide for the health and safety of people and property from fire risk, she sought further information from FENZ to provide evidence at the Hearing of the need for this in the Central Hawke's Bay context.
- 10.3.3 The reporting planner recommended accepting HBRC's submission (S11.038) that sought to add an additional assessment matter to consider how clearance may impact an adjacent SNA or ecological corridor. Ms Morgan considered that whilst there may not be many of these areas unaccounted for, given the importance of such areas as buffers and corridors, it would be appropriate to include the Assessment Matter as sought by this submitter as shown below:

#### Assessment Matters

For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors).

**ECO-AM1 Removal of Manuka or Kanuka**

1. The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values.
  2. The extent to which an area of affected indigenous vegetation or habitat of indigenous fauna and its inter-relationship with other habitats or areas of indigenous vegetation represents or exemplifies the components of the natural diversity of a larger reference area. For example, the representation of the current natural diversity of an ecological district, or representation of the original natural landscape.
  3. The sustainability of the habitat or area of vegetation proposed to be modified or damaged or of any adjoining habitat of vegetation to an area proposed to be affected.
  4. The degree to which the vegetation or habitat is threatened or is uncommon in the ecological district within which it is located.
  5. Whether any affected area contains a vegetation type or species of flora or fauna that is regionally rare or threatened.
  6. **Whether the area is adjacent to an SNA or part of an ecological corridor for threatened or at-risk species and the impact that the clearance may have on these areas.**
  7. Location and dimensions of areas to be cleared and vegetation type.
  8. Effects on archaeological, cultural, or historic sites.
  9. Effects on waterbodies and riparian margins.
  10. Clearance methods.
  11. Where biodiversity off-setting is proposed, the application of the principles contained in ECO-APP2 will be considered.
  12. Effects on areas of high natural character identified in CE-SCHED7, or on outstanding natural landscape or feature, or significant amenity feature identified in NFL-SCHED6.
- [Note this amendment does not include amendments as a result of Key Issue 3]*

- 10.3.4 The reporting planner recommended accepting Forest and Bird's submission (S75.045) that sought to retain assessment matter ECO-AM2.
- 10.3.5 The reporting planner, however, recommended rejecting FENZ's submission (S57.065) that sought a new assessment matter similar to that above in the absence of sufficient evidence to support including this new assessment matter.

#### Methods

- 10.3.6 The reporting planner recommended rejecting Forest and Bird's submission (S75.048) that sought to amend Method ECO-M4 to clarify when or where rates relief or financial assistance would be granted. Ms Morgan stated that Method ECO-M4(3) promotes the provision of partial rates relief or other financial assistance for landowners was an 'other method' to promote the maintenance of ecological corridors and networks. She noted that rates relief was however not determined and actioned through the PDP but was an 'other method' that could be considered in the future, as part of future rates reviews, should Council decide to do so.
- 10.3.7 The reporting planner recommended accepting the submissions of Forest and Bird (S75.049 and S75.050) that sought to retain Method ECO-M5 and ECO-M6, respectively.

#### Anticipated Environmental Results

- 10.3.8 The reporting planner recommended accepting the submissions of Forest and Bird (S75.051, S75.052, S75.053, S75.054, and S75.056) that sought to retain Anticipated Environmental Results ECO-AER1, ECO-AER2, ECO-AER3, ECO-AER4, and ECO-AER6 respectively.
- 10.3.9 The reporting planner recommended accepting Forest and Bird's submission (S75.055) that sought to delete ECO-AER5 or amend it to clarify how it fits into the framework. Ms Morgan explained that Anticipated Environmental Result ECO-AER5 is about activities on the surface of

water that are addressed in separate PDP provisions and therefore does not relate to this chapter. For this reason, she agreed with this submitter and recommended that it should be deleted, while all other Anticipated Environmental Results be retained as proposed, as shown below:

#### Anticipated Environmental Results

The environmental results anticipated from the policies and methods:

ECO-AER1	Increasing the biodiversity values of the District by increasing the protection and ecological management of SNAs and other natural areas.
ECO-AER2	Improved integrated management of the District's significant areas of indigenous vegetation and/or significant habitats of indigenous fauna and biodiversity within Central Hawke's Bay District.
ECO-AER3	Improved landowner and public understanding of the protecting biodiversity values in Central Hawke's Bay.
ECO-AER4	Increase in the number of registered sites of QE II Covenants to protect areas of significant indigenous vegetation and/or significant indigenous habitats of flora and fauna in perpetuity.
<del>ECO-AER5</del>	<del>Avoidance, remediation, and mitigation of potential conflicts between surface water activities and adjoining activities.</del>
ECO-AER6	Maintenance of the natural amenity and intrinsic values of waterbodies.

## 10.4 Evidence to the Hearing

### Assessment Matters

- 10.4.1 FENZ submitted written evidence to the Hearings Panel. It stated that, in considering FENZ request for two new assessment matters to be added, the reporting planner stated that it would be helpful if FENZ could provide evidence at the hearing of the need for these matters in the Central Hawke's Bay context. In response, FENZ staff attended the hearing to provide this information. For clarity, however, the written evidence stated that FENZ did not seek to remove or reduce the need to obtain resource consent for these activities. It agreed with the reporting officer that it is not unreasonable that consent may be required on occasion for trimming and clearance of areas of indigenous vegetation.
- 10.4.2 Nigel Hall from FENZ presented to the Hearings Panel about the concept of 'defensible space'. He stated that, with fires, it's very difficult to defend homes that are built amongst vegetation. They recommend that trees are not planted within 10m of houses and that between 10m – 30m distance, all trees are trimmed. He used the recent Waimarama and State Highway 50 fires as examples.
- 10.4.3 HBRC submitted a written statement to the Hearings Panel, in which the Council planner, Mr Ide, agreed with the reporting planner's recommendation to amend Assessment Matter ECO-AM1.

## 10.5 Post-Hearing Information

- 10.5.1 The sixth memorandum and direction of the hearings panel following hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 10.5.2 Ms Morgan's right-of-reply addressed Assessment Matters ECO-AM1 and ECO-AM2.
- 10.5.3 Ms Morgan stated that whilst FENZ did not particularly address the matter of flammability in indigenous vegetation, they did provide some context, citing the Port Hill Fires as an example

showing how quickly fire can spread in natural areas. She was therefore comfortable that these Assessment Matters can be included in this section of the Plan as shown below:

**ECO-AM1 Removal of Manuka or Kanuka**

1...

- 14. The degree to which the trimming or removal of affected vegetation will provide for the health and safety of people, property, and the environment through the management of fire risk.**

**ECO-AM2 Trimming and clearance of Indigenous Vegetation**

1...

- 13. The degree to which the trimming or removal of affected vegetation will provide for the health and safety of people, property, and the environment through the management of fire risk.**

- 10.5.4 For the reasons outlined above Ms Morgan changed her recommendation to submission points S57.064 and S57.65 FENZ, from 'rejected' to 'accepted in part'.

## 10.6 Evaluation and Findings

### Assessment Matters

- 10.6.1 We agree with the reporting planner's recommendation to accept in part the submissions of DOC (S64.066) and Forest and Bird (S75.044) that sought to retain assessment matter ECO-AM1 (noting that this assessment matter was subject to amendments from other submissions).
- 10.6.2 We agree with the reporting planner's recommendation in her right-of-reply dated 4 May 2022 to accept in part Fire and Emergency's submission's (S57.064 and S57.065) that sought to include new assessment matters to assess the trimming and removal of vegetation for the purpose of fire risk management.
- 10.6.3 We agree with the reporting planner's recommendation to accept HBRC's submission (S11.038).
- 10.6.4 We agree with the reporting planner's recommendation to accept Forest and Bird's submission (S75.045) that sought to retain assessment matter ECO-AM2.

### Methods

- 10.6.5 We agree with the reporting planner's recommendation to reject Forest and Bird's submission (S75.048) that sought amendment to Method ECO-M4 to clarify when or where rates relief or financial assistance would be granted.
- 10.6.6 We agree with the reporting planner's recommendation to accept the submissions of Forest and Bird (S75.049 and S75.050) that sought to retain Method ECO-M5 and ECO-M6, respectively.

### Anticipated Environmental Results

- 10.6.7 We agree with the reporting planner's recommendation to accept the submissions of Forest and Bird (S75.051, S75.052, S75.053, S75.054, and S75.056) that sought to retain Anticipated Environmental Results ECO-AER1, ECO-AER2, ECO-AER3, ECO-AER4, and ECO-AER6 respectively.
- 10.6.8 We agree with the reporting planner's recommendation to accept Forest and Bird's submission (S75.055) that sought to delete ECO-AER5.



## 11 Key Issue 9 – General Submissions on Scheduling

### 11.1 Proposed Plan Provisions

- 11.1.1 This key issue addresses general matters in relation to Schedule ECO-SCHED5.

### 11.2 Submissions

- 11.2.1 There were 3 original submission points and 1 further submission point on this Key Issue.
- 11.2.2 The matters raised in these submissions were of a general nature and did not relate to submissions on individual properties or specific sites: those submissions and further submissions were addressed in the Panel's report on Hearing Stream 6.

### 11.3 Reporting Planner's Recommendations

- 11.3.1 The reporting planner recommended accepting Forest and Bird's submission (\$75.059) that sought to retain ECO-SCHED5.
- 11.3.2 The reporting planner recommended rejecting P Oldfield's submission (\$91.001) that did not specify any relief sought but asked a number of questions with regard to SNA-133. In response to those questions, Ms Morgan stated that the presence of an SNA on private property does not affect the legal title. However, the management of land did have some constraints as set out in the PDP policy and rule framework, in response to Council's responsibilities under the RMA to recognize and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. She noted that, while this submitter had not sought any specific relief, their general opposition to SNAs was noted.
- 11.3.3 The reporting planner recommended accepting in part Federated Farmers submission (\$121.034) that sought to have SNA boundaries adjusted in response to landowner submissions, to introduce a minimum area for SNAs, and to remove sites that were protected by other mechanisms (such as QEII covenants), and to inform landowners of the criteria that their SNA meets. Ms Morgan stated that Council had consulted with landowners on the scheduling of sites and had undertaken ground-truthing at landowners' request which had, in a number of cases, resulted in refined mapping of boundaries. There would be further consideration of submissions that related to the mapping / scheduling of individual sites as part of Hearing Stream 6 that would take place at a later date.
- 11.3.4 She stated that the issue of error margin has been addressed in the ecological reports and taken into account in the assessments. The 'Natural Heritage Review of the CHBD' provides that the Minimum Mapping Units (MMU) for this project was 0.5 ha individual polygons, rounded to the nearest 0.01ha. Areas of indigenous vegetation smaller than 0.5 ha were not mapped or assessed unless they were part of a larger multi-polygon site<sup>10</sup>. The ecological reports also acknowledge that ground-truthing is the ultimate method to ensure a high level of accuracy, but that was not a practical approach in a district the size of Central Hawke's Bay.
- 11.3.5 The reporting planner was satisfied that the accuracy levels of mapping have been appropriately recognised in the reports supporting the PDP mapping and scheduling of sites.

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<sup>10</sup> Page 14 Natural Heritage Review of the Central Hawke's Bay District, Kessels Ecology (2018).



- 11.3.6 With respect to deleting SNA sites protected by QEII National Trust or similar from Schedule ECO-SCHED5, for the same reasons as outlined in response to Federated Farmers' submission (S121.019) on Policy ECO-P1 (refer Key Issue 4), the reporting planner did not consider it appropriate to delete SNA sites protected by QEII National Trust or similar, from Schedule ECO-SCHED5. She considers it is important that all of the District's natural heritage resource is recognised regardless of a site's legal status.
- 11.3.7 With respect to informing landowners as to what criteria their SNA sites meet, Ms Morgan stated that this is impractical to provide in the schedule itself. She does note, however, that the Schedule summarises the key information from the Natural Heritage Review, and the full ecological assessment explaining how the review was undertaken is available on the CHBDC website.

#### **11.4 Evidence to the Hearing**

- 11.4.1 Evidence that was submitted by Federated Farmers on its concerns with the mapping of SNAs is outlined in paragraph 9.4.20 of this report.
- 11.4.2 Tom Kay, for Forest and Bird, tabled written presentation notes to the Hearings Panel. He stated that the organisation was concerned that mapping of SNAs only occurred for areas over 0.5ha. He considered that this meant that strong should be required for clearance/modification of indigenous vegetation outside of scheduled SNAs. He also considered this meant a clear and precautionary trigger was needed for a resource consent requirement.

#### **11.5 Post-Hearing Information**

- 11.5.1 The sixth memorandum and direction of the hearings panel following hearing 1 was issued on 18 March 2022. It directed that the reporting planner provide a written right-of-reply.
- 11.5.2 Ms Morgan's right-of-reply addressed this key issue.
- 11.5.3 She stated that as no specific changes were sought by Forest & Bird to ECO-SCHED5 and the comments in relation to this were of a general nature, there was nothing presented that has changed her position from that which was set out in Key Issue 7 ECO-Rules of her Section 42A Report.

#### **11.6 Evaluation and Findings**

- 11.6.1 We agree with the reporting officer's recommendation that no amendments need be made to ECO-SCHED5 nor should it be deleted. The Panel understands that Council has consulted with landowners on the scheduling of sites and has undertaken ground-truthing at landowners' request which has in a number of cases resulted in refined mapping of boundaries. In response, we have considered specific submissions from landowners that relate to the mapping / scheduling of individual sites as part of Hearing Stream 6 (see our report on that matter).

## PART C – SUMMARY OF RECOMMENDATIONS

### 12 Summary of recommendations

- 12.1.1 A summary table of recommended decisions against each relevant submission point is included as Appendix B.
- 12.1.2 A tracked changes version of recommended amendments is included as Appendix A.

### 13 Consequential Amendments and Minor Errors

- 13.1.1 Schedule 1, cl16(2), allows minor and inconsequential amendments to be made to the Plan.

#### 13.2 Consequential amendments

- 13.2.1 As outlined in Key Issue 7 (paragraph 9.6.27) as a consequence of recommending Policy ECO-P11 the Panel recommends an amendment to Rule ECO-R1A(1)(a)(iii) to clarify the extent of trimming or clearing exemptions in regard to protective covenants.
- 13.2.2 As outlined in Key Issue 7 (paragraph 9.6.26) as a consequence of deleting Rule ECO-R6 clarifying changes have also been made to Rules ECO-R1, ECO-R1A and ECO-R2.

#### 13.3 Minor errors

- 13.3.1 As outlined in Key Issue 1 (paragraph 3.6.7) a minor amendment is recommended to the definition of 'Indigenous Vegetation' to remove the inclusion of ground cover. The Panel consider this inclusion is superfluous.
- 13.3.2 As outlined in Key Issue 1 (paragraph 3.6.10) a minor amendment is recommended to the definition of 'Biodiversity Offsetting' which referenced ECO-APP1 rather than ECO-APP2. The Panel has recommended amending the incorrect reference whilst retaining the remainder of the definition as notified.

## **Appendix A – Chapter ECO – Ecosystems and Indigenous Biodiversity as Amended**

Tracked changes

## NATURAL ENVIRONMENT VALUES

### ECO – Ecosystems and Indigenous Biodiversity

#### Introduction

In achieving the sustainable management purpose of the RMA, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, is specifically identified as a 'matter of national importance' (section 6(c)).

The RMA also requires particular regard to be given to 'other matters', including kaitiakitanga (s7(a)), and the intrinsic values of ecosystems (s7(d)), amongst other things.

Section 31 of the RMA also requires territorial authorities to control any actual or potential effects of the use, development or protection of land for the purpose of maintaining indigenous biological diversity (s31(1)(b)(iii)).

Subdivision, use and development often results in changes to the natural environment. These changes are not always negative, nor are they always significant, however it is important that an opportunity to consider the impact of these activities on the District's remaining significant indigenous vegetation and significant habitats of indigenous fauna is provided for in the District Plan.

At a national level, a National Policy Statement for Indigenous Biodiversity (NPS-IB) is anticipated to be gazetted and to take effect mid 2021, which is expected to require district plans to:

- undertake a district-wide assessment to identify and map areas of significant indigenous vegetation and / or significant habitats of indigenous fauna within the District; and
- take steps to ensure the protection, maintenance and restoration of indigenous biodiversity.

It is anticipated that the approach in this District Plan will go a long way towards giving effect to the likely requirements of the NPS-IB.

#### Issues

**ECO-11**      **Loss of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna**

**ECO-12**      **The desire lack of opportunity of mana whenua to exercise kaitiakitanga in the protection of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna.**

**Commented [A1]:** S125.051 Ngā hapū me ngā marae o Tamatea  
- Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 3

**Loss of the District's indigenous vegetation, habitats of indigenous fauna and indigenous biodiversity from threats of modification, damage, or destruction through inappropriate subdivision, use and development.**

Explanation

There is a relatively small amount of remaining indigenous cover in the plains and coastal areas of Central Hawke's Bay. These remaining habitats are now isolated and fragmented. In addition, plant, and animal pests, as well as diseases contribute to the degradation of these fragile areas. While land use changes, development and subdivision can result in adverse effects on these habitats and the native plants and animals which use them, many landowners have voluntarily protected and managed what is left. Addressing the issue of biodiversity loss and degradation therefore requires an integrated management approach that recognises existing activities and utilises a range of implementation methods.

A study of the natural values of the District shows that remaining habitats of indigenous fauna and flora comprise approximately 10% of the District's total land area. However much of the remaining forest lies in the Ruahine Forest Park and is represented by hill and country forests and habitats which are well represented and protected in the region and nationally. The plains and lowland coastal areas, however, have very little remaining original cover and habitat. While some ecosystem / vegetation types retain much of their original extent (such as the podocarp-beech types in the very steep areas of the Ruahine Ranges), other types (such as kahikatea-pukatea-tawa forest) and freshwater wetlands, have retained very little of their former extent. Some vegetation types, such as podocarp-based vegetation types, have all but disappeared from the District. Under-represented ecosystem types fall largely within nationally threatened and under-protected environment categories, and the lowland, coastal and plains parts of the District have very few natural features left and hence very low biodiversity values for indigenous fauna and flora.

Sites which were found to be significant with respect to section 6(c) of the RMA, have been mapped and shown on the Planning Maps, and recommended for inclusion in the District Plan as 'Significant Natural Areas' (SNAs). Many of the sites are found within the Ruahine Forest Park, already under protection. In the plains and along the coast, sites are generally scattered smaller fragments of remaining bush, regenerating scrub and wetlands. Habitats for nationally 'At-Risk' and 'Threatened' fauna and flora are also located within and alongside much of the shingle braided river corridors as well as coastal cliffs and estuary / river mouth areas of the District. While these latter habitats often comprise exotic trees and shrubs, and even weeds, with little native plant cover, they provide the only habitat left for many native animals and plants, including rare and threatened species. They are also critical in maintaining ecological corridors between the coast, existing native fragments across the plains and the extensive forested and protected habitats for the Ruahine Ranges, as well as providing breeding, roosting and spawning habitat.

Only a small percentage of significant sites in the plains and coastal areas have some form of legal protection, such as Stewardship Areas, Queen Elizabeth II National Trust (QEII) private land covenants, and Ngā Whenua Rāhui kawenata (covenants). Central Hawke's Bay District Council acknowledges the important stewardship role of landowners in protecting and managing these remaining sites. The study of the District's natural values also identified that

there are many sites outside those legally protected natural remnants which have value, that have been assessed as SNAs. Landowners often informally protect and manage these SNAs to enhance their biodiversity values as well.

The Hawke's Bay Regional Policy Statement identifies that water and its relationship with land is a significant issue for the Region, as is the scarcity of indigenous vegetation, natural wetlands, and habitats of indigenous fauna as a result of vegetation modification or clearance. Lake Whatuma, Porangahau River and Estuary, the Ruataniwha Aquifer and Waipawa River have been identified as outstanding water bodies, with Lake Whatuma identified as a regionally significant indigenous wetland.

As part of addressing these issues, Hawke's Bay Regional Council have led development of a Regional Biodiversity Strategy to improve habitats and support native species in the Region. Central Hawke's Bay District Council is a signatory and 'accountable partner' to the Hawke's Bay Biodiversity Accord and is therefore a key regional partner in encouraging and enabling improvement in the Region's biodiversity.

Council recognises there is a need to balance protecting and enhancing the District's indigenous biodiversity while allowing for rural landowners to farm their land effectively and efficiently. Except where very high conservation values exist, a wide range of activities can be accommodated, with appropriate standards to ensure adverse effects of these activities are avoided, remedied, or mitigated.

Council also has responsibilities in relation to the control of activities on the surface of inland waters where effects can cause loss of water quality and impacts on ecological systems and habitats.

## Objectives

**ECO-01** Protect the District's areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, particularly those within wetlands, braided rivers, and coastal margins, from activities that may adversely affect them.

**Commented [A2]:** S75.029 Forest and Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 2

**ECO-02** Maintain indigenous biodiversity within Central Hawke's Bay District.

**ECO-03** The relationship of tangata whenua and their traditions and culture with indigenous vegetation and fauna are recognised and provided for.

**Commented [A3]:** S120.018 Heretaunga Tamatea Settlement Trust - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 3

## Policies

**ECO-P1** To identify Significant Natural Areas (being areas of significant indigenous vegetation and/or significant habitats of indigenous fauna) in the District where they meet one or more of the criteria below and describe these areas in ECO-SCHED5 and show their

location on the Planning Maps [\(except for areas that meet Criterion 1, where at least one of Criterion 2-7 must also be met\).](#)

**Commented [A4]:** S75.031 Forest & Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 4

<b><i>Ecological Significance Determination Criteria for the Central Hawke's Bay District</i></b>	
<b>CRITERION 1 <u>Protection Status:</u></b>	
It is indigenous vegetation or habitat for indigenous fauna that is currently, or is recommended to be, set aside by Government statute or covenant, or by the Nature Heritage Fund, or Ngā Whenua Rauhi committees, or the Queen Elizabeth the Second National Trust Board of Directors as an Open Space Covenant, specifically for the protection of biodiversity, and meets at least one of criteria 2-7.	
<b>CRITERION 2 <u>Representativeness:</u></b>	
•	It is vegetation or habitat of indigenous fauna that is highly typical or characteristic of the indigenous biodiversity in the Hawkes Bay Region, or an Ecological District within the Central Hawkes Bay District, or nationally.
OR	
•	It is habitat that forms part of an indigenous ecological sequence, or is an exceptional, representative example of its type at a national level.
OR	
•	It is habitat that supports a typical suite of indigenous fauna and flora and that is characteristic of the habitat type in an Ecological District within the Central Hawkes Bay District.
<b>CRITERION 3 <u>Diversity and Pattern:</u></b>	
It is an area of indigenous vegetation or habitat of high diversity (for its type) that contains ecotones, gradients, or sequences.	
<b>CRITERION 4 <u>Rarity – Species:</u></b>	
It is vegetation or habitat (including exotic vegetation or braided riverbed for highly mobile fauna species), that is currently regularly utilised habitat for indigenous flora or fauna species or associations of indigenous flora and fauna species that are:	
•	classed as Nationally Threatened or At Risk by the New Zealand Threat Classification System, or
•	endemic or uncommon to the Hawke's Bay Region, or
•	at the limit of their natural range.
<b>CRITERION 5 <u>Rarity - Ecosystems:</u></b>	
It is indigenous vegetation or habitat that is, and prior to human settlement was, nationally uncommon.	
<b>CRITERION 6 <u>Distinctiveness:</u></b>	
•	It is indigenous vegetation or habitat on an ecosystem type that is under-represented (30% or less of its known or likely original extent remaining) in an Ecological District, or Ecological Region, or nationally.
OR	
•	It is wetland, sand dune, braided river or estuarine habitats, or a distinctive assemblage or community of indigenous species habitat for indigenous plant communities and/or indigenous fauna communities (excluding exotic rush/pasture communities) that has <i>not</i> been created and subsequently maintained for or in connection with: <ul style="list-style-type: none"> <li>○ waste treatment;</li> <li>○ wastewater renovation;</li> <li>○ hydroelectric power lakes;</li> <li>○ water storage for irrigation; or</li> <li>○ water supply storage, including stock water storage <a href="#">and fire ponds.</a></li> </ul>
<b>CRITERION 7 <u>Ecological Context:</u></b>	
It is an area of indigenous vegetation or naturally occurring habitat that:	
•	is moderate to large, well buffered, or is a compact shape, in the context of the Ecological District it is found in, and which contains all or almost all indigenous species typical of that habitat type.
OR	
•	is critical to the self-sustainability of an indigenous flora or fauna species within a catchment of the Hawke's Bay Region. In this context "critical" means essential for a

**Commented [A5]:** S85.004 Rayonier Matariki Forest - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 4

	specific component of the life cycle and includes breeding and spawning grounds, juvenile nursery areas, important feeding areas and migratory and dispersal pathways of an indigenous species. This includes areas that maintain connectivity between habitats.
OR	
•	is a site that provides a full or partial buffer to, or link between, other important habitats or significant natural area(s) and/or is important for the natural functioning of a freshwater or coastal/estuarine system.
Refer District Plan ECO-APP1 for Quantifying Thresholds and Attribute Assessment Guidance.	

- ECO-P2** To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna from the adverse effects of landuse and development, including earthworks and vegetation clearance, whilst providing for limited trimming and clearance opportunities where it is necessary for the economic, social and/or cultural wellbeing of people or their health and safety.
- ECO-P3** To avoid adverse effects of activities on areas of significant indigenous vegetation and/or significant habitats of indigenous fauna in the coastal environment; and avoid significant adverse effects and remedy or mitigate other adverse effects of activities on the indigenous biological values of other areas and habitats in the coastal environment.
- ECO-P4** To avoid, remedy or mitigate adverse effects, including cumulative adverse effects of subdivision, use and development that would result in a loss of indigenous biodiversity values from:
1. Clearance, modification, damage or destruction of large areas of intact indigenous vegetation or habitats of indigenous fauna;
  2. Clearance of indigenous vegetation in and on the margins of Lake Whātuma, and other natural wetlands, and including braided rivers;
  3. Subdivision of land and location of buildings and works in close proximity to areas of significant indigenous vegetation and/or habitats of indigenous fauna; or
  4. Increased exposure to invasive introduced plant and animal species that pose a threat to indigenous biodiversity.
- ECO-P5** To give effect to the Principles for Biodiversity Offsets in ECO-APP2 of this Plan where biodiversity offsets are proposed as part of resource consent applications.
- ECO-P6.** To encourage the restoration and creation of ecological linkages between coastal habitats, river and stream margins and inland habitats as the opportunity arises and where it enhances the Districts indigenous biodiversity.
- ECO-P7** To recognise landowners' stewardship and current management practices (including weed management and pest control) associated

**Commented [A6]:** S121.017 Federated Farmers - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 2

**Commented [A7]:** S75.034 Forest & Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 6



with protecting and maintaining areas of significant indigenous vegetation and/or significant habitats of indigenous fauna.

**ECO-P8** To assist landowners with the establishment of protective covenants, education, and other non-regulatory methods and incentives to protect and maintain areas of significant indigenous vegetation and/or significant habitats of indigenous fauna

**ECO-P9** To ensure that new nationally significant infrastructure is not located in areas of significant indigenous vegetation and/or significant habitats of indigenous fauna unless:

1. There is a functional or operational need for the infrastructure to be in that particular location; and
2. The route/site selection process has identified no practicable alternative locations.

Where it is necessary to locate in these areas and where, despite the adoption of the best practicable option, there remain residual adverse effects, biodiversity offsetting measures should be proposed for the purpose of ensuring positive effects on the environment sufficient to offset any residual adverse effects of activities on indigenous biodiversity that will or may result from allowing the activity.

**ECO-P10** To enable the use and development of Māori land containing areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, that supports the social, cultural and economic wellbeing of tangata whenua, and takes into account the significant values of the vegetation or fauna habitat.

**Commented [A8]:** S59.002 Karl Tipene - Report 6B SNA Mapping, Key Issue 1

**ECO-P110** To exempt from regulatory controls under the District Plan for Significant Natural Areas, activities carried out in accordance with a registered covenant under either the Reserves Act 1977, Conservation Act 1987 (including Ngā Whenua Rāhui Kawenata created under the Reserves Act 1977 or Conservation Act 1987) or Queen Elizabeth the Second National Trust Act 1977, or are managed under a Reserve Management Plan approved under the Reserves Act 1977.

**Commented [A9]:** S121.027 Federated Farmers - Report 1B Ecosystems and Indigenous Vegetation, Key Issue 6

## Rule Overview Table

Use/activity	Rule Number
Trimming or clearance of indigenous vegetation within any of the following <u>(excluding where it forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5):</u>	ECO-R1

**Commented [A10]:** S121.033 Federated Farmers - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

<ol style="list-style-type: none"> <li>1. Areas of domestic or ornamental landscape planting; or</li> <li>2. Planted shelter belts; or</li> <li>3. Plantation forestry undergrowth; or</li> <li>4. Planted indigenous forestry.</li> </ol>	
<u>Specified Trimming or clearance of indigenous vegetation (excluding where it forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5)</u>	<u>ECO-R1A</u>
Trimming or clearance of indigenous vegetation that has naturally re-grown on land that was cleared within the previous 15 years <u>(excluding where it forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5)</u>	ECO-R2
Trimming or clearance of indigenous vegetation inside any area <u>of significant indigenous vegetation and/or significant habitat of indigenous fauna identified as a Significant Natural Area in ECO-SCHED5</u> (excluding natural wetlands)	<u>ECO-R3</u>
Trimming or clearance of indigenous vegetation outside any area <u>of significant indigenous vegetation and/or significant habitat of indigenous fauna identified as a Significant Natural Area in ECO-SCHED5</u>	ECO-R4
<u>Trimming or clearance of indigenous vegetation not otherwise provided for</u>	<u>ECO-R5</u>
Trimming or clearance of indigenous vegetation which forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5	ECO-R6

**Commented [A11]:** S81.073 Hort NZ - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A12]:** S121.033 Federated Farmers – Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A13]:** S75.041 Forest & Bird and S64.064 DOC - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A14]:** S75.041 Forest & Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A15]:** S121.032 Federated Farmers - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

## Rules

It is important to note that in addition to the provisions in this chapter, zone chapters and a number of other Part 2: District-Wide Matters chapters also contain provisions that may be relevant for activities involving the trimming or clearance of significant indigenous vegetation and/or significant habitats of indigenous fauna.

Note 1: Plantation Forestry Activities - In the case of conflict with any rule in this Chapter, the provisions of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, (NES-PF) particularly regulations 93 and 94, apply instead of the rule. This specifically applies to afforestation, and vegetation clearance that occurs during or

after afforestation outside of a significant natural area and 'incidental damage' within or outside a significant natural area. Vegetation clearance of indigenous vegetation that occurs before afforestation, or within a significant natural area (other than incidental damage) is not controlled by the NES-PF, and the rules in this Chapter will apply.

For the avoidance of doubt, the NES-PF does not apply to the following activities, and they are therefore subject to the rules of this chapter:

- Vegetation clearance of indigenous vegetation that occurs before afforestation (see Reg 5 (3)):
- Vegetation clearance of indigenous vegetation within a significant natural area, except that clearance of a forestry track described in Reg 93(2)(d) NES-PF, or incidental damage described in Reg 93(5), are covered by the NES-PF under Reg 93 or 94.

Note 2: These rules do not replace regional rules which control vegetation clearance and soil disturbance to address the loss and degradation of soil. These rules must be complied with prior to the activity proceeding.

**ECO-R1 Trimming or clearance of indigenous vegetation within any of the following (excluding where it forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5):**

- Areas of domestic or ornamental landscape planting; or
- Planted shelter belts; or
- Plantation forestry undergrowth; or
- Planted indigenous forestry.

All Indigenous Vegetation Species	1. Activity Status: PER  Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A
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**ECO-R1A Specified Trimming or clearance of indigenous vegetation (excluding where it forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5)**

All Indigenous Vegetation Species	1. Activity Status: PER  <u>Where the following conditions are met:</u> a. <u>Limited to trimming or clearance that is required for any of the following purposes:</u> i. <u>required to achieve compliance with the requirements of the Electricity (Hazards from Trees) Regulations 2003; or</u> ii. <u>required to remove deadwood, wind-thrown trees, or chronically diseased indigenous vegetation, where an</u>	2. Activity status where compliance not achieved: <u>ECO-R2 to ECO-R45 apply</u>
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**Commented [A16]:** S85.008 Rayonier Matariki Forests; S132.002 Ernslaw One Limited ; S132.003 Ernslaw One Limited; S132.004 Ernslaw One Limited – Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 1 and 7

**Commented [A17]:** S11.037 Hawke's Bay Regional Council - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 2

**Commented [A18]:** S121.033 Federated Farmers – Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A19]:** S121.033 Federated Farmers – Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A20]:** S81.073 Hort NZ - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A27]:** S81.073 Hort NZ - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A21]:** S121.030 Federated Farmers – Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that the indigenous vegetation is no longer independently viable or poses a risk; or

iii. carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1987 or Queen Elizabeth the Second National Trust Act 1977; or a Reserve Management Plan approved under the Reserves Act 1977 (including Ngā Whenua Rāhui Kawenata [covenants] created under either s77A Reserves Act 1977 or s27A Conservation Act 1987); or

iv. required for pest control undertaken by or in conjunction with the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council, or by landowners and personnel working with these organisations for this purpose; or removal of material infected by an unwanted organism under the Biosecurity Act 1993; or

v. necessary to avoid an imminent threat to the safety of persons or of damage to lawfully established buildings or structures; or

vi. necessary to provide for the ongoing safe and efficient operation, and maintenance and upgrading of existing telecommunication, radio communication and other network utilities, but excluding their expansion, where carried out by the respective network utility operator; or

vii. necessary to provide for the maintenance and safe and efficient operation of existing tracks, stock crossing and bridges, drains,

**Commented [A22]:** Correction under Schedule 1, cl16(2) of the RMA

**Commented [A23]:** S121.027 Federated Farmers - Report 1B Ecosystems and Indigenous Vegetation, Key Issue 6

**Commented [A24]:** S121.030 Federated Farmers - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A25]:** S75.040 Forest & Bird - Network Utilities Topic 7A, Key Issue 11

firebreaks, formed public roads, private accesses, driveways, right of ways and walkways; or

viii. necessary to maintain buildings, provided that the trimming or clearance of vegetation is limited to within 3 metres of a wall or roof of a building; or

ix. required to construct new fences (including post holes) to exclude stock and/or pests from the area of indigenous vegetation, or to maintain existing fences, provided that the trimming or clearance does not exceed 2 metres in width either side of the fence line; or

x. for use by tangata whenua for cultural purposes (e.g. for Rongoā, Waka, traditional buildings and marae-based activities) and does not result in the removal of more than 25m<sup>3</sup> of timber per site per 10-year period.

*Note (1): The Council recommends that trimming or clearance of indigenous vegetation is carried out by an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification.*

*Note (2): Any trimming or clearance work within the vicinity of a network utility should be undertaken by a network utility approved arborist.*

**Commented [A26]:** S121.030 Federated Farmers - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**ECO-R2 Trimming or clearance of indigenous vegetation that has naturally re-grown on land that was cleared within the previous 15 years (excluding where it forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5)**

**Manuka and Kanuka Species Only**

**1. Activity Status: PER**

**Where the following conditions are met:**

- a. Limited to:
- i. trees no more than 30cm in diameter measured at 1.4m from the highest

**2. Activity status where compliance not achieved: RDIS**

**Matters over which discretion is restricted:**

**Commented [A28]:** S121.033 Federated Farmers – Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

	<p>point of ground level at the base of the tree.</p> <p><i>Note: If the requirements of this rule are complied with then there is no limit on the area of vegetation that can be trimmed or cleared.</i></p>	a. ECO-AM1.
<b>All Other Indigenous Vegetation Species</b>	<p><b>3. Activity Status: PER</b></p> <p><b>Where the following conditions are met:</b></p> <p>a. Limited to:</p> <p>i. trees no more than 30cm in diameter measured at 1.4m from the highest point of ground level at the base of the tree.</p> <p><i>Note: If the requirements of this rule are complied with then there is no limit on the area of vegetation that can be trimmed or cleared.</i></p>	<p><b>4. Activity status where compliance not achieved: ECO-R3 to ECO-R6 apply</b></p>

**ECO-R3 Trimming or clearance of indigenous vegetation inside any areas of significant indigenous vegetation and/or significant habitat of indigenous fauna identified as a Significant Natural Area in ECO-SCHED5 (excluding natural wetlands)**

<b>All Indigenous Vegetation Species</b>	<p><b>1. Activity Status: PER</b></p> <p><b>Where the following conditions are met:</b></p> <p>a. Limited to (whichever is the lesser):</p> <p>i. clearance of no more than 500m<sup>2</sup> of indigenous vegetation per Significant Natural Area identified in ECO-SCHED5 site per calendar year; or</p> <p>ii. clearance of no more than 1% of the area of a Significant Natural Area identified in ECO-SCHED5 per calendar year.</p> <p><b>OR</b></p> <p>b. Limited to trimming or clearance that is:</p> <p>i. required to achieve compliance with the requirements of the Electricity (Hazards from Trees) Regulations 2003; or</p> <p>ii. required to remove deadwood, wind-thrown trees, or chronically diseased indigenous vegetation, where an</p>	<p><b>2. Activity status where compliance not achieved: DIS</b></p>
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**Commented [A29]:** S75.041 Forest & Bird and S64.064 DOC - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A30]:** S11.018 HBRC and S75.040 Forest & Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that the indigenous vegetation is no longer independently viable or poses a risk; or

- iii. carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or a Reserve Management Plan approved under the Reserves Act 1977; or
- iv. required for pest control undertaken by the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council; and removal of material infected by an unwanted organism under the Biosecurity Act 1993; or
- v. necessary to avoid an imminent threat to the safety of persons or of damage to lawfully established buildings or structures; or
- vi. necessary to provide for the ongoing safe and efficient operation, maintenance and upgrading of telecommunication, radio communication and other network utilities, but excluding their expansion, where carried out by the respective network utility operator; or
- vii. necessary to provide for the maintenance and safe and efficient operation of existing tracks, drains, formed public roads, private accesses, driveways, right of ways and walkways; or
- viii. necessary to maintain buildings, provided that the trimming or clearance of vegetation is limited to within 3 metres of a wall or roof of a building; or

- ix. required to construct new fences (including post holes) to exclude stock and/or pests from the area of indigenous vegetation, or to maintain existing fences, provided that the trimming or clearance does not exceed 2 metres in width either side of the fence line; or
- x. for use by tangata whenua for cultural purposes (e.g. for Rongoā, Waka, traditional buildings and marae-based activities) and does not result in the removal of more than 25m<sup>3</sup> of timber per site per 10-year period.

*Note (1): The Council recommends that trimming or clearance of indigenous vegetation is carried out by an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification.*

*Note (2): Any trimming or clearance work within the vicinity of a network utility should be undertaken by a network utility approved arborist.* *Note (3): Afforestation and vegetation clearance of indigenous vegetation associated with plantation forestry, is subject to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.*

**Commented [A31]:** S81.073 Hort NZ - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A32]:** S85.008 Rayonier Matariki Forests; S132.002 Ernslaw One Limited ; S132.003 Ernslaw One Limited; S132.004 Ernslaw One Limited - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**ECO-R4 Trimming or clearance of indigenous vegetation outside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna identified as a Significant Natural Area in ECO-SCHED5**

**Manuka and Kanuka Species Only**

**1. Activity Status: PER**

**Where the following conditions are met:**

- a. Limited to:
  - i. clearance of no more than 40.5 hectare per site per calendar year.
  - ii. Trees to be cleared must behave:
    - a. no more than 15cm in diameter measured 1.4m from

**2. Activity status where compliance not achieved: RDIS**

**Matters over which discretion is restricted:**

- a. ECO-AM1.



	<p>the highest point of ground level at the base of the tree an average diameter measured 1.4m from the highest point of ground level at the base of the tree, of no more than 15cm; and</p> <p>b. <del>must have</del> an average canopy height of less than 6 metres.</p>	
All Other Indigenous Vegetation Species	<p><b>3. Activity Status: PER</b></p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <p>i. clearance of no more than 40.5 hectare per site per calendar year.</p> <p>ii. Trees to be cleared must <del>have be</del>:</p> <p>a. <del>no more than 15cm in diameter measured 1.4m from the highest point of ground level at the base of the tree an average diameter measured 1.4m from the highest point of ground level at the base of the tree, of no more than 15cm;</del> and</p> <p>b. <del>must have</del> an average canopy height of less than 6 metres.</p>	<p><b>4. Activity status where compliance not achieved: DIS</b></p>
ECO-R5 Trimming or clearance of indigenous vegetation not otherwise provided for		
All Indigenous Vegetation Species	<p><b>1. Activity Status: DIS</b></p> <p>Where the following conditions are met: N/A</p>	<p><b>2. Activity status where compliance not achieved: N/A</b></p>
ECO-R6 Trimming or clearance of indigenous vegetation which forms part of any natural wetland identified as a Significant Natural Area in ECO-SCHED5		
All Indigenous Vegetation Species	<p><b>1. Activity Status: NC</b></p> <p>Where the following conditions are met: N/A</p> <p><i>Note (1): Wetland restoration work managed by the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's</i></p>	<p><b>2. Activity status where compliance not achieved: N/A</b></p>

**Commented [A33]:** S75.041 Forest & Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A34]:** S121.032 Federated Farmers - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

<p><u>Bay District Council is regulated by the Regional Resource Management Plan and the NES Freshwater 2020 and therefore exempt from this rule.</u></p>	
<p><u>Note (2): This rule does not apply to vegetation clearance associated with construction of, and ongoing safe and efficient operation, maintenance and upgrading of a network utility, but is subject to the (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA) (refer Regulations 30, 31 and 32), and / or Resource Management (National Environmental Standards for Freshwater) Regulations, 2020 (NES-FM), (refer Regulations 46 &amp; 47).</u></p>	
<p><u>Note (3): This does not apply to trimming or clearance of vegetation that requires consent under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.</u></p>	

**Commented [A35]:** S11.019 HBRC - 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A36]:** S79.066 Transpower - 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

**Commented [A37]:** S121.033 Federated Farmers - 1B Ecosystems and Indigenous Biodiversity, Key Issue 7

## Assessment Matters

For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors).

### ECO-AM1 Removal of Manuka or Kanuka

1. The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values.
2. The extent to which an area of affected indigenous vegetation or habitat of indigenous fauna and its inter-relationship with other habitats or areas of indigenous vegetation represents or exemplifies the components of the natural diversity of a larger reference area. For example, the representation of the current natural diversity of an ecological district, or representation of the original natural landscape.
3. The sustainability of the habitat or area of vegetation proposed to be modified or damaged or of any adjoining habitat of vegetation to an area proposed to be affected.
4. The degree to which the vegetation or habitat is threatened or is uncommon in the ecological district within which it is located.

5. Whether any affected area contains a vegetation type or species of flora or fauna that is regionally rare or threatened.

6. Whether the area is adjacent to an SNA or part of an ecological corridor for threatened or at risk species and the impact that the clearance may have on these areas.

6-7. Location and dimensions of areas to be cleared and vegetation type.

7-8. Effects on archaeological, cultural, or historic sites.

8-9. Effects on waterbodies and riparian margins.

9-10. Clearance methods.

10-11. Where biodiversity off-setting is proposed, the application of the principles contained in ECO-APP2 will be considered.

11-12. Effects on areas of high natural character identified in CE-SCHED7, or on outstanding natural landscape or feature, or significant amenity feature identified in NFL-SCHED6.

12-13. Whether the indigenous vegetation or habitat is on Māori land proposed for development, and the effects of that development on the indigenous vegetation or habitat.

13-14. The degree to which the trimming or removal of affected vegetation will provide for the health and safety of people, property, and the environment through the management of fire risk.

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Ecosystems and Indigenous Biodiversity, Key Issue 8

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Ecosystems and Indigenous Biodiversity, Key Issue 3

**Commented [A40]:** S57.064 FENZ – Report 1B  
Ecosystems and Indigenous Biodiversity, Key Issue 8

*Note: Any significance assessment must be carried out by a suitably qualified ecologist or forester (i.e. B.For.Sc, BSc, B.App.Sc or relevant postgraduate qualification).*

#### ECO-AM2 Trimming and Clearance of Indigenous Vegetation

1. The significance of the affected indigenous vegetation or habitat of indigenous fauna in terms of ecological, intrinsic, cultural or amenity values.
2. The extent to which an area of affected indigenous vegetation or habitat of indigenous fauna and its inter-relationship with other habitats or areas of indigenous vegetation represents or exemplifies the components of the natural diversity of a larger reference area. For example, the representation of the current natural diversity of an ecological district, or representation of the original natural landscape.
3. The sustainability of the habitat or area of vegetation proposed to be modified or damaged or of any adjoining habitat of vegetation to an area proposed to be affected.
4. The degree to which the vegetation or habitat is threatened or is uncommon in the ecological district in which it is located.
5. Whether any affected area contains a vegetation type of species of flora or fauna that is regionally rare or threatened.
6. Location and dimensions of areas to be cleared and vegetation type.
7. Effects on archaeological, cultural or historic sites.
8. Effects on waterbodies and riparian margins.
9. Clearance methods.
10. Where biodiversity off-setting is proposed, the application of the principles in ECO-APP2 will be considered.

11. Effects on areas of high natural character identified in CE-SCHED7, or on outstanding natural landscape or feature, or significant amenity feature identified in NFL-SCHED6.
12. [Whether the indigenous vegetation or habitat is on Māori land proposed for development, and the effects of that development on the indigenous vegetation or habitat.](#)
13. [The degree to which the trimming or removal of affected vegetation will provide for the health and safety of people, property, and the environment through the management of fire risk.](#)

**Commented [A41]:** S125.075 NHMT - Report 1B  
Ecosystems and Indigenous Biodiversity, Key Issue 3

**Commented [A42]:** S57.065 FENZ - Report 1B  
Ecosystems and Indigenous Biodiversity, Key Issue 8

*Note: Any significance assessment must be carried out by a suitably qualified ecologist or forester (i.e. B.For.Sc, BSc, B.App.Sc or relevant postgraduate qualification).*

## Methods

Methods, other than the above rules, for implementing the policies:

### ECO-M1 Identification and Mapping of Significant Natural Areas

Identifying Significant Natural Areas in ECO-SCHED5 in the District Plan and showing them on the relevant Planning Maps.

### ECO-M2 Other Provisions in the District Plan

Implementation of objectives and policies of the relevant zones and district-wide activities in the District Plan, including those set out in the following sections of the District Plan:

1. TW – Ngā Tangata Whenua o Tamatea
2. SASM – Sites and Areas of Significance to Māori
3. NFL – Natural Landscapes and Features
4. SUB – Subdivision
5. CE – Coastal Environment
6. EW – Earthworks – rules limit the amount of earthworks in areas of significant indigenous vegetation and/or significant habitats of indigenous fauna

### ECO-M3 Biodiversity Offsetting

Applying nationally accepted best practice principles for biodiversity offsetting where biodiversity offsetting or compensation is proposed, to achieve 'no net loss' or a 'net gain' of indigenous biodiversity where adverse effects cannot be avoided, remedied, or mitigated. This includes reference to 'Guidance of Good Practice Biodiversity Offsetting in New Zealand', (Department of Conservation, (2014))' and 'Biodiversity Offsetting Under the Resource Management Act, A Guidance Document' (Maseyk, Ussher, Kessels, Christenson and Brown, (2018)), [and the principles outlined in ECO-APP2](#).

**Commented [A43]:** S75.047 Forest & Bird - Report 1B  
Ecosystems and Indigenous Biodiversity, Key Issue 5

### ECO-M4 Promotion of Ecological Corridors / Networks

Promoting the protection and maintenance of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, particularly those that contribute to achieving an ecological corridor or network, through for example:

1. taking esplanade reserves or esplanade strips on subdivision as the opportunity arises;
2. providing for additional development rights through the subdivision of Conservation Lots where sites in ECO-SCHED5 or other areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including wetlands) are protected in perpetuity; and
3. providing partial rates relief or other financial assistance for landowners.

#### **ECO-M5                    Advocacy, Education and Information Sharing**

1. Promoting education, advocacy and information sharing to raise community awareness of the attributes and values of the District's areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, and the need to have regard to these values when considering applications for subdivision use and development activities.
2. Encouraging, guiding and assisting landowners in the voluntary protection of natural areas, including making the community more aware of the opportunities provided by the Queen Elizabeth II National Trust Act 1977 and Reserves Act 1977 (e.g. Ngā Whenua Rāhui kawenata), particularly landowners of areas identified in ECO-SCHED5 of the District Plan; and through consideration of other mechanisms such as a rates rebates in accordance with the provisions of the Local Government Act 1974.

#### **ECO-M6                    Hawke's Bay Biodiversity Accord**

Council's role in the Hawke's Bay Biodiversity Accord. This will be a key method for enhancing biodiversity in the District and will include maintaining, developing, and enhancing partnerships with landowners who have large and significant ecological areas, Landcare and other community groups and non-governmental organisations', tangata whenua, Hawke's Bay Regional Council, Department of Conservation and other agencies and stakeholders to provide focused and efficient assistance to worthy protection and enhancement projects.

### **Principal Reasons**

The principal reasons for adopting the policies and methods:

Key threats to areas of significant indigenous vegetation and/or significant habitats of indigenous fauna include inappropriate subdivision, use and development, intensification in land use practices, as well as animal and plant pests and diseases. Control and management of these activities, via rules for earthworks and vegetation clearance, in areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, is therefore appropriate.

There is considerable ecological benefit in restoring and linking SNAs where they can contribute to restoring the biodiversity values of a site, achieving an ecological corridor or

network, or controlling animal and plant pests. Methods to encourage and assist ecological management, restoration and protection measures by landowners is therefore appropriate. Council recognises that many landowners are already being proactive in the protection of areas of significant indigenous habitat including SNAs, and seeks to continue working together with the community, to encourage protection of sites on private land though consideration of other mechanisms such as QEII covenants and rates rebates in accordance with the provisions of the Local Government Act 1974.

Council, through its commitment to the Hawkes's Bay Biodiversity Accord will also continue to work with community groups and other organisations to raise awareness about the importance of protecting and enhancing the District's biodiversity and remaining threatened indigenous habitats and fauna.

### Anticipated Environmental Results

The environmental results anticipated from the policies and methods:

- |                 |  |
|-----------------|--|
| <b>ECO-AER1</b> | <b>Increasing the biodiversity values of the District by increasing the protection and ecological management of SNAs and other natural areas.</b>  |
| <b>ECO-AER2</b> | <b>Improved integrated management of the District's significant areas of indigenous vegetation and/or significant habitats of indigenous fauna and biodiversity within Central Hawke's Bay District.</b> |
| <b>ECO-AER3</b> | <b>Improved landowner and public understanding of the protecting biodiversity values in Central Hawke's Bay.</b>   |
| <b>ECO-AER4</b> | <b>Increase in the number of registered sites of QE II Covenants to protect areas of significant indigenous vegetation and/or significant indigenous habitats of flora and fauna in perpetuity.</b>      |
| <b>ECO-AER5</b> | <b>Avoidance, remediation, and mitigation of potential conflicts between surface water activities and adjoining activities.</b>  |
| <b>ECO-AER6</b> | <b>Maintenance of the natural amenity and intrinsic values of waterbodies.</b>   |

**Commented [A44]:** S75.055 Forest & Bird - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 8

## ECO-APP1 – Quantifying Thresholds and Attribute Assessment Guidance

Ecological Significance Determination Criteria for the Central Hawkes Bay District	
CRITERION 1 <u>Protection Status</u> :	It is indigenous vegetation or habitat for indigenous fauna that is currently, or is recommended to be, set aside by Government statute or covenant, or by the Nature Heritage Fund, or Ngā Whenua Rāhui committees, or the Queen Elizabeth the Second National Trust Board of Directors as an Open Space Covenant, specifically for the protection of biodiversity, and meets at least one of criteria 2-7.
CRITERION 2 <u>Representativeness</u> :	<ul style="list-style-type: none"> <li>It is vegetation or habitat of indigenous fauna that is highly typical or characteristic of the indigenous biodiversity in the Hawkes Bay Region or an Ecological District within the Central Hawkes Bay District, or nationally.</li> </ul> OR <ul style="list-style-type: none"> <li>It is habitat that forms part of an indigenous ecological sequence, or is an exceptional, representative example of its type at a national level.</li> </ul> OR <ul style="list-style-type: none"> <li>It is habitat that supports a typical suite of indigenous fauna and flora and that is characteristic of the habitat type in an Ecological District within the Central Hawkes Bay District.</li> </ul>
CRITERION 3 <u>Diversity and Pattern</u> :	It is an area of indigenous vegetation or habitat of high diversity (for its type) that contains ecotones, gradients, or sequences.
CRITERION 4 <u>Rarity – Species</u> :	It is vegetation or habitat (including exotic vegetation or braided riverbed for highly mobile fauna species), that is currently regularly utilised habitat for indigenous flora or fauna species or associations of indigenous flora and fauna species that are: <ul style="list-style-type: none"> <li>classified as Nationally Threatened or At Risk by the New Zealand Threat Classification System, or</li> <li>endemic or uncommon to the Hawkes Bay Region, or</li> <li>at the limit of their natural range.</li> </ul>
CRITERION 5 <u>Rarity - Ecosystems</u> :	It is indigenous vegetation or habitat that is, and prior to human settlement was nationally uncommon.
CRITERION 6 <u>Distinctiveness</u> :	<ul style="list-style-type: none"> <li>It is indigenous vegetation or habitat on an ecosystem type that is under-represented (30% or less of its known or likely original extent remaining) in an Ecological District, or Ecological Region, or nationally.</li> </ul> OR <ul style="list-style-type: none"> <li>It is wetland, sand dune, braided river or estuarine habitats, or a distinctive assemblage or community of indigenous species habitat for indigenous plant communities and/or indigenous fauna communities (excluding exotic rush/pasture communities) that has <i>not</i> been created and subsequently maintained for or in connection with: <ul style="list-style-type: none"> <li>waste treatment;</li> <li>wastewater renovation;</li> <li>hydroelectric power lakes;</li> <li>water storage for irrigation; or</li> <li>water supply storage, including stock water storage <u>and fire ponds</u>.</li> </ul> </li> </ul>
CRITERION 7 <u>Ecological Context</u> :	It is an area of indigenous vegetation or naturally occurring habitat that: <ul style="list-style-type: none"> <li>is moderate to large, well buffered, or is a compact shape, in the context of the Ecological District it is found in, and which contains all or almost all indigenous species typical of that habitat type.</li> </ul> OR <ul style="list-style-type: none"> <li>is critical to the self-sustainability of an indigenous flora or fauna species within a catchment of the Hawkes Bay Region. In this context "critical" means essential for a specific component of the life cycle and includes breeding and spawning grounds, juvenile nursery areas, important feeding areas and migratory and dispersal pathways of an indigenous species. This includes areas that maintain connectivity between habitats.</li> </ul> OR <ul style="list-style-type: none"> <li>is a site that provides a full or partial buffer to, or link between, other important habitats or significant natural area(s) and/or is important for the natural functioning of a freshwater or coastal/estuarine system.</li> </ul>
<b>Qualifying Thresholds &amp; Attribute Assessment Guidance:</b>	
a) All areas to be assessed using these criteria must be undertaken by a suitably qualified and experienced ecologist.	

**Commented [A1]:** S85.004 Rayonier Matariki Forest - Report 1B Ecosystems and Indigenous Biodiversity, Key Issue 4

### Ecological Significance Determination Criteria for the Central Hawkes Bay District

- b) For an area to be significant, and ranked as a significant natural area, one or more of criteria 2-7 is to be met.
- c) Habitats for Highly Mobile Indigenous Fauna Species: In some cases habitats for highly mobile indigenous fauna species are not contained within mapped significant natural areas, and can include exotic features, such as exotic trees used for roosting by long-tailed bats. For the purposes of this District Plan highly mobile indigenous fauna means species that; are highly mobile; where some individuals move between different environments during their life cycle for reasons such as feeding, mating, nesting, moulting or in response to climatic conditions; and include only nationally Threatened or At-Risk fauna species.
- d) The following guidance notes provides technical advice to determine what are the habitat usage and ecological integrity thresholds to be met before an area can be a potential significant natural area (e.g. to establish if a treeland or scrubland remnant with less than 80% canopy cover over pasture is still structurally intact, or to assist in determination of clearly recognisable patterns of seasonal use by a fauna species as opposed to one-off opportunistic uses of habitat).
- e) The guidance notes define the attributes for ranking the value of each significance assessment criterion – High, Medium or Low value.
- f) The ecologist needs to consider the following matters to determine when delineating the extent of a habitat used by indigenous species and identifying an indigenous vegetation area as an significant natural area:
  - i. Threshold determiner for rare species: Can the habitats of the Threatened or At Risk species be clearly delineated and regular usage be determined? Consider the pattern of distribution of the subject species, its key habitat and lifecycle requirements, including if habitat usage is regular, seasonal or occasional.
  - ii. Threshold determiner for indigenous vegetation or ecosystem type: Is the *ecosystem integrity* of the subject area sufficiently intact to delineate and define a recognisable ecosystem type comprising predominately of indigenous species? Matters to consider are vegetation cover composition and density at all structural tiers, the characteristic biophysical elements supporting that ecosystem type, the ecosystem's capacity to maintain its structural and functional processes, the proportion of exotic vegetation cover as opposed to indigenous vegetation cover, and if contains a range of defining elements characteristic for its ecotype.
  - iii. Representativeness includes commonplace vegetation/habitats, which is where most indigenous biodiversity is present. It is not restricted to the best or most representative examples. It is not a measure of how well that vegetation or habitat is protected elsewhere in the ecological district. This can include secondary or regenerating vegetation that is recovering following natural or induced disturbance, provided indigenous species composition is typical of that type of vegetation. Representative indigenous fauna habitat can support the typical suite of indigenous animals that would occur in the present-day, regardless of the threat status of those species.
  - iv. Representativeness Ranking Attributes (Criterion 2):  
 High: Ecological unit(s) present that is typical of the indigenous character of the ecological district and which retains a high level of ecological integrity in the context of what remains in the ecological district.  
 High: Habitat that supports a typical suite of indigenous fauna that is characteristic of the habitat type in the ecological district and retains the majority of species expected for that habitat type in the ecological district.  
 Medium: Ecosystem type(s) present that is typical of the indigenous character of the ecological district and which retains a moderate level of ecological integrity in the context of what remains in the ecological district.  
 Medium: Habitat that supports a typical suite of indigenous taxa that is characteristic of the habitat type in the ecological district and retains a moderate range of species expected for that habitat type in the ecological district.  
 Low: Vegetation or habitat that is not typical of the indigenous vegetation or habitat of the ecological district or marine biogeographic area.
  - v. Diversity has biological components, such as species/taxa, communities, and ecological variation. It also has physical components, such as geology, soils/substrate, aspect/exposure, and altitude. Pattern includes changes along environmental gradients, such as ecotones and sequences. Some communities or habitats are uniform, with naturally low species diversity; that attribute is assessed under the representativeness criterion.
  - vi. Diversity & Pattern Ranking Attributes (Criterion 3):  
 High A high diversity of indigenous species, vegetation, habitats of indigenous fauna, or communities within the context of the ecological district.  
 High: Presence of important ecotones and/or complete gradients or sequences.  
 Medium: A moderate diversity of indigenous species, vegetation, habitats of indigenous fauna, or communities within the context of the ecological district.  
 Medium: Presence of 1 or more ecotones and/or gradients or sequences.



### Ecological Significance Determination Criteria for the Central Hawkes Bay District

- Low: A low diversity of indigenous species, habitats or communities, and lack of ecotones, gradients or sequences.
- vii. Rarity includes ecosystems that are uncommon, and species that are threatened. Threatened and At Risk (including 'naturally uncommon') species at a national scale are listed in publications (for plants, mammals, birds, and reptiles) prepared and regularly updated by the Department of Conservation. Rarity at a regional or local scale is defined by published local lists or determined by professional opinion. Some species within the Myrtaceae family are relatively common in the Central Hawkes Bay (e.g. kānuka, mānuka) but are listed as Threatened or At Risk due to the threat posed by myrtle rust. If an area is identified only because of the presence of mānuka and kānuka, it should not trigger Criterion 4. However, if it qualifies as significant for any other reason, then it should be ranked as a Significant Natural Area. Two national frameworks are available for the assessment of rarity of terrestrial indigenous vegetation or ecosystems: Ecological Districts, as defined by McEwen (1987); and Land Environments, as defined by Leathwick et al (2003).
- viii. Rarity – Species Ranking Attributes (Criterion 4):  
 High: Provides habitat for a nationally Threatened, or two or more At Risk indigenous species as identified in the New Zealand Threat Classification System lists as published by the Department of Conservation.  
 Medium: Provides habitat for an At Risk indigenous species as identified in the New Zealand Threat Classification System lists as published by the Department of Conservation.  
 Medium: Indigenous vegetation or a ecosystem type for an indigenous fauna species that is uncommon or at its distributional limit within the Hawkes Bay Region or ecological district within the Central Hawkes Bay.  
 Low: Supports no Threatened, At Risk, regionally or locally uncommon indigenous species; and no indigenous species near distributional limits.
- ix. Historically rare (or naturally uncommon) terrestrial ecosystems are defined and listed by Williams et al (2007) and further defined by Wiser et al (2013). These ecosystems, along with wetlands and sand dunes, are proposed as a priority for protection on private land by the Ministry for the Environment (2007).
- x. Historically Rare Ranking Attributes (Criterion 5):  
 High: Indigenous vegetation/habitat occurring on 'originally rare' ecosystem types.  
 Low: Is not indigenous vegetation/habitat on sand dunes, wetlands, estuaries or 'originally rare' ecosystems.
- xi. Distinctiveness includes distribution limits for indigenous vegetation types or ecosystems (as opposed to species), type localities, local endemism, relict distributions, and special ecological or scientific features. Distinctiveness of indigenous vegetation in each Land Environment has been assessed by Walker et al (2006) and Cieraad et al (2015). Land Environment data should be interpreted with caution. These are based on physical attributes which may not accurately reflect vegetation (or habitat) patterns at a local scale. Distinctiveness at a regional or local scale is defined by published local lists or determined by professional opinion.
- xii. Distinctiveness Ranking Attributes (Criterion 6):  
 High: Indigenous vegetation or habitat of indigenous fauna or ecosystem that has been reduced to less than 30% of its former extent in the ecological district or land environment within the Hawkes Bay Region.  
 High: Indigenous vegetation/habitat occurring on sand dunes, wetlands, or estuaries.  
 High: An indigenous vegetation community or ecosystem type at, or near, its distributional limit.  
 Medium: The presence of a distinctive assemblage or community of indigenous species, or special ecological or scientific feature.  
 Low: Is not indigenous vegetation or ecosystems type that has been reduced to less than 30% of its former extent in the ecological district or land environment within the Hawkes Bay Region.  
 Low: Is not indigenous vegetation/habitat on sand dunes, wetlands, estuaries or 'originally rare' ecosystems.
- xiii. Ecological Context is the extent to which the size, shape, and position of an area within the wider environment (land, freshwater or marine) contributes to the maintenance of indigenous biodiversity. Ecological context has two main attributes: the characteristics that help maintain indigenous biodiversity at the site (such as size, shape and configuration); and the contribution the site makes to protection of indigenous biodiversity in the wider landscape (such as by linking or buffering other sites, providing 'stepping stones' of habitat, or maintaining ecological and hydrological processes). Higher value is placed on sites that: have features (such as size, shape, configuration or buffering) that help maintain indigenous biodiversity at the site; support large numbers of or provide important habitat for indigenous fauna; provide a buffer to or link between other significant areas; or play an important role in the biological/natural functioning of a freshwater or coastal/marine system.

### Ecological Significance Determination Criteria for the Central Hawkes Bay District

xiv. Ecological Context Ranking Attributes (Criterion 7):

High: A functionally and structurally intact site that is large in area compared to other remnants in an ecological district, is not fragmented and is contiguous or in close proximity to other significant natural areas.

High: A site that provides a functionally and structurally intact buffer to, or link between, other significant natural areas or significant habitats of indigenous fauna.

High: A site that supports large numbers of and/or provides critical habitat for indigenous fauna through one or more life cycle stages.

Medium: A site that provides a partially functionally and structurally intact buffer to, or link between, other significant natural areas.

Medium: A site that supports moderate numbers of and/or provides seasonal habitat for indigenous fauna through one or more life cycle stages, and where that habitat is not critical.

Low: An isolated, degraded or fragmented site with no obvious buffer or linkage values.

Low: A site with no obvious habitat value for indigenous fauna through one or more life cycle stages.

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## ECO-APP2 – Principles for Biodiversity Offsetting

Source: *Draft National Policy Statement for Indigenous Biodiversity, November 2019*

The following sets out a framework of principles for the use of biodiversity offsets. Principles 1–12 must be complied with for an action to qualify as a biodiversity offset. Principles 13–14 should be met for an action to qualify as a biodiversity offset.

1. **Adherence to mitigation hierarchy:** A biodiversity offset is a commitment to redress [more than minor] residual adverse impacts. It should only be contemplated after steps to avoid, remedy, and mitigate adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual indigenous biodiversity impacts.
2. **Limits to offsetting:** Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include where:
  - i) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected
  - ii) there are no technically feasible or socially acceptable options by which to secure gains within acceptable timeframes
  - iii) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse.

In these situations, an offset would be inappropriate. This principle reflects a standard of acceptability for offsetting and a proposed offset must provide an assessment of these limits that supports its success.

3. **No net loss and preferably a net gain:** The values to be lost through the activity to which the offset applies are counterbalanced by the proposed offsetting activity which is at least commensurate with the adverse effects on indigenous biodiversity so that the overall result is no net loss and preferably a net gain in biodiversity. No net loss and net gain are measured by type, amount and condition at the impact and offset site and require an explicit loss and gain calculation.
4. **Additionality:** A biodiversity offset must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the offset, including that gains are additional to any remediation and mitigation undertaken in relation to the adverse effects of the activity. Offset design and implementation must avoid displacing activities harmful to indigenous biodiversity to other locations.
5. **Like-for-like:** The ecological values being gained at the offset site are the same as those being lost at the impact site across types of indigenous biodiversity, amount of indigenous biodiversity (including condition), over time and spatial context.
6. **Landscape context:** Biodiversity offset actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district, and must consider the landscape context of both the impact

site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.

7. **Long-term outcomes:** The biodiversity offset must be managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity.
8. **Time lags:** The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the offset site must be minimised so that gains are achieved within the consent period.
9. **Trading up:** When trading up forms part of an offset, the proposal must demonstrate that the indigenous biodiversity values gained are demonstrably of higher value than those lost, and the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.
10. **Offsets in advance:** A biodiversity offset developed in advance of an application for resource consent must provide a clear link between the offset and the future effect. That is, the offset can be shown to have been created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.
11. **Proposing a biodiversity offset:** A proposed biodiversity offset must include a specific biodiversity offset management plan.
12. **Science and matauranga Māori:** The design and implementation of a biodiversity offset must be a documented process informed by science, including an appropriate consideration of matauranga Māori.
13. **Stakeholder participation:** Opportunity for the effective participation of stakeholders should be demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementation, and monitoring. Stakeholders are best engaged early in the offset consideration process.
14. **Transparency:** The design and implementation of a biodiversity offset and communication of its results to the public should be undertaken in a transparent and timely manner. This includes transparency of the loss and gain calculation and the data that informs a biodiversity offset.

## **Appendix B – Summary of recommended on submissions**

**Table: Summary of recommended decisions on submissions and further submissions**

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S11.018	Hawke's Bay Regional Council	ECO-R3	Amend ECO-R3 by removing (1)(a): '1. Activity Status: PER Where the following conditions are met: a. Limited to (whichever is the lesser): i. clearance of no more than 500m <sup>2</sup> of indigenous vegetation per site per calendar year; or ii. clearance of no more than 1% of the area of a Significant Natural Area identified in ECO-SCHED5 per calendar year. OR b. ....'	Reject	Accept in part	Yes
S11.019	Hawke's Bay Regional Council	ECO-R6	Add Note to ECO-R6 as follows: <b>'Note: Wetland restoration work managed by the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council is regulated by the Regional Resource Management Plan and the NES Freshwater 2020 and therefore exempt from this rule.'</b>	Accept	Accept	Yes
FS25.62	Federated Farmers of New Zealand		Allow in part That the submission be accepted, but the rule applies to all people and not just the three named organisations.	Reject	Reject	
S11.037	Hawke's Bay Regional Council	ECO - Introduction	Add the following note to ECO-Introduction: <b>'Note: These rules do not replace regional rules which control vegetation clearance and soil disturbance to address the loss and degradation of soil. These rules must be complied with prior to the activity proceeding.'</b>	Accept in part	Accept in part	Yes
S11.038	Hawke's Bay Regional Council	ECO-AM1	Add the following assessment matter to ECO-AM1 (following ECO-AM1(5)) as follows: <b>'Whether the area is adjacent to an SNA or part of an ecological corridor for threatened or at-risk species and the impact that the clearance may have on these areas.'</b>	Accept	Accept	Yes
FS25.64	Federated Farmers of New Zealand		Disallow	Reject	Reject	
S11.040	Hawke's Bay Regional Council	ECO-R1	Support ECO-R1 as drafted.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No

## Proposed Central Hawke's Bay District Plan

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Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S11.041	Hawke's Bay Regional Council	ECO-R2	Support ECO-R2 as drafted.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
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S11.042	Hawke's Bay Regional Council	ECO-R4	Support ECO-R4 as drafted.	Accept in part	Accept in part	No
.						
S24.001	Duncan Smith	ECO - Ecosystems and Indigenous Biodiversity	I oppose the SNA plan	Reject	Reject	No
.						
S28.003	Gerard Pain	ECO - Ecosystems and Indigenous Biodiversity	'Significant Natural Areas' should be 'rates free' (like what is available for QEII blocks).	Reject	Reject	No
.						
S28.005	Gerard Pain	ECO - Ecosystems and Indigenous Biodiversity	Provide an avenue for rural landowners to question experts opinions regarding identified areas.	Reject	Reject	No
.						
S39.003	Kathryn Bayliss	ECO-R2	Prohibit clearance of indigenous vegetation, except for ECO-R3(1)(b). Trimming should be discretionary and also limited to ECO-R3(1)(b).	Reject	Reject	No
FS25.55	Federated Farmers of New Zealand		Disallow	Accept	Accept	
S39.004	Kathryn Bayliss	ECO-R3	Prohibit clearance of indigenous vegetation, except for ECO-R3(1)(b). Trimming should be discretionary and limited also to ECO-R3(1)(b).	Reject	Reject	No
FS25.57	Federated Farmers of New Zealand		Disallow	Accept	Accept	
S39.005	Kathryn Bayliss	ECO-R4	Prohibit clearance of indigenous vegetation, except for ECO-R3(1)(b). Trimming should be discretionary and also limited to ECO-R3(1)(b).	Reject	Reject	No
FS25.58	Federated Farmers of New Zealand		Disallow	Accept	Accept	
S39.006	Kathryn Bayliss	ECO-R5	Prohibit clearance of indigenous vegetation, except for ECO-R3(1)(b). Trimming should be discretionary and limited also to ECO-R3(1)(b).	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS25.61	Federated Farmers of New Zealand		Disallow	Accept	Accept	
<b>S39.007</b>	<b>Kathryn Bayliss</b>	ECO-R6	Prohibit clearance of indigenous vegetation, except for ECO-R3(1)(b). Trimming should be discretionary and limited also to ECO-R3(1)(b).	Reject	Reject	No
FS25.63	Federated Farmers of New Zealand		Disallow	Accept	Accept	
<b>S39.008</b>	<b>Kathryn Bayliss</b>	ECO-P4	ECO-P4(2) should include all waterbodies.	Reject	Reject	No
<b>S42.009</b>	<b>New Zealand Pork Industry Board</b>	WETLAND (NATURAL) / NATURAL WETLAND (Definition)	The definition of 'Wetland (Natural)/Natural Wetland' should align with that of the National Policy Statement for Freshwater Management 2020.	Reject	Reject	No
FS19.6	Penny Nelson, Director-General of Conservation		Allow in part	Reject	Reject	
<b>S57.060</b>	<b>Fire and Emergency New Zealand</b>	ECO-R1	Retain ECO-R1 as notified.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
FS22.0010	Ernslaw One Limited		Allow	Accept in part	Accept in part	
<b>S57.061</b>	<b>Fire and Emergency New Zealand</b>	ECO-R2	Retain ECO-R2 as notified.	Accept in part	Accept in part	No
<b>S57.062</b>	<b>Fire and Emergency New Zealand</b>	ECO-R3	Retain ECO-R3 as notified.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
<b>S57.063</b>	<b>Fire and Emergency New Zealand</b>	ECO-R4	Retain ECO-R4 as notified.	Accept in part	Accept in part	No
<b>S57.064</b>	<b>Fire and Emergency New Zealand</b>	ECO-AM1	Add new assessment matter to ECO-AM1 as follows: '... <b>12. The degree to which the trimming or removal of affected vegetation will provide for the health and safety of people, property, and the environment through the management of fire risk.'</b>	Accept in part (Hearing Stream 1 – Right of Reply dated 4 May 2022)	Accept in part	Yes
FS25.65	Federated Farmers of New Zealand		Allow	Accept	Accept	



Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S57.065	Fire and Emergency New Zealand	ECO-AM2	Add new assessment matter to ECO-AM2 as follows: '... <b>12. The degree to which the trimming or removal of affected vegetation will provide for the health and safety of people, property, and the environment through the management of fire risk.'</b>	Accept in part (Hearing Stream 1 – Right of Reply dated 4 May 2022)	Accept in part	Yes
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S59.004	Karl Tipene	ECO - Ecosystems and Indigenous Biodiversity	Oppose all SNA on Māori land	Accept in part (Hearing Stream 4 (second stage) – Right of Reply dated 9 December 2022)	Accept in part	Yes
FS5.066	Ngā hapū me ngā marae o Tamatea		Disallow	Accept in part		
S63.002	Claire Murphy	ECO - Ecosystems and Indigenous Biodiversity	Strongly oppose rules relating to 'Significant Natural Areas'.	Reject	Reject	No
.						
S64.053	Department of Conservation	ECO-01	Retain ECO-01	Accept	Accept	No
FS9.336	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.054	Department of Conservation	ECO-02	Retain ECO-02.	Accept	Accept	No
FS9.337	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.055	Department of Conservation	ECO-P1	Retain ECO-P1.	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	No
FS9.338	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	
S64.056	Department of Conservation	ECO-P2	Retain ECO-P2	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	No
FS9.339	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S64.057	Department of Conservation	ECO-P3	Retain ECO-P3.	Accept	Accept	No
FS9.340	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.058	Department of Conservation	ECO-P4	Retain ECO-P4.	Accept	Accept	No
FS9.341	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.059	Department of Conservation	ECO-P5	Retain ECO-P5.	Accept	Accept	No
FS9.342	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.060	Department of Conservation	ECO-P6	Retain ECO-P6.	Accept	Accept	No
FS9.343	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.061	Department of Conservation	ECO-P7	Retain ECO-P7.	Accept	Accept	No
FS9.344	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.062	Department of Conservation	ECO-P8	Retain ECO-P8.	Accept	Accept	No
FS9.345	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.063	Department of Conservation	ECO-P9	Retain ECO-P9.	Accept	Accept	No
FS9.346	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
S64.064	Department of Conservation	ECO-R3	Clarify if ECO-R3 is meant to only apply within SNA areas or also for significant indigenous vegetation and significant habitat of indigenous fauna outside of SNAs. Amend 'Permitted' conditions in ECO-R3(1) to replace the word 'OR' with 'AND' (conditions a and b both required to be met).	Accept in part	Accept in part	Yes

## Proposed Central Hawke's Bay District Plan

## Panel Report: Natural Environment

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS9.347	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept in part	Accept in part	
<b>S64.065</b>	<b>Department of Conservation</b>	ECO-R4	Amend ECO-R4 to reduce the limit of clearance.	Accept	Accept	No
FS5.081	Ngā hapū me ngā marae o Tamatea		Allow	Reject	Accept	
FS25.59	Federated Farmers of New Zealand		Disallow	Reject	Reject	
FS9.348	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept	Accept	
<b>S64.066</b>	<b>Department of Conservation</b>	ECO-AM1	Retain ECO-AM1.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
FS9.349	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	
<b>S64.067</b>	<b>Department of Conservation</b>	ECO-APP1	Amend Criterion 5 in ECO-APP1 to broaden definition to include naturally uncommon ecosystems that do not provide for indigenous vegetation or habitat.	Reject	Reject	No
FS9.350	Royal Forest and Bird Protection Society of New Zealand Incorporated		Allow	Reject	Reject	
FS25.66	Federated Farmers of New Zealand		Disallow	Accept	Accept	
<b>S75.001</b>	<b>Royal Forest and Bird Protection Society NZ (Forest &amp; Bird)</b>	AREAS OF SIGNIFICANT INDIGENOUS VEGETATION AND/OR SIGNIFICANT HABITATS OF INDIGENOUS FAUNA (Definition)	Retain the definition of 'Areas of Significant Indigenous Vegetation and/or Significant Habitats of Indigenous Fauna' as proposed.	Accept	Accept	No
FS22.004	Ernslaw One Limited		Allow	Accept	Accept	
FS5.014	Ngā hapū me ngā marae o Tamatea		Allow	Accept	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS19.3	Penny Nelson, Director-General of Conservation		Allow in part	Accept	Accept	
<b>S75.002</b>	<b>Royal Forest and Bird Protection Society NZ (Forest &amp; Bird)</b>	CLEARANCE (Definition)	Amend the definition of 'Clearance' to fix typo error as follows: 'in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line: a. ... ... f. drilling or excavation g. discharge of toxic substances h. mob stocking i. overplanting'	Accept in part (subject to amendments from other submissions)	Accept in part (subject to amendments from other submissions)	Yes
FS19.4	Penny Nelson, Director-General of Conservation		Allow in part	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	
FS5.0010	Ngā hapū me ngā marae o Tamatea		Allow	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	
<b>S75.005</b>	<b>Royal Forest and Bird Protection Society NZ (Forest &amp; Bird)</b>	INDIGENOUS VEGETATION (Definition)	Retain the definition of 'Indigenous Vegetation' as proposed.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
FS5.005	Ngā hapū me ngā marae o Tamatea		Allow in part	Accept n part (Subject to amendments from other submissions)	Accept n part (Subject to amendments from other submissions)	
<b>S75.006</b>	<b>Royal Forest and Bird Protection Society NZ (Forest &amp; Bird)</b>	TRIMMING (Definition)	Amend the definition of 'Trimming' to provide revised wording.	Reject	Reject	No
.						
<b>S75.029</b>	<b>Royal Forest and Bird Protection Society NZ (Forest &amp; Bird)</b>	ECO-01	Amend ECO-01 as follows: 'Protect the District's areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, particularly those within wetlands, braided rivers, and coastal margins, from activities that may adversely affect them.'	Accept	Accept	Yes
FS22.003	Ernslaw One Limited		Allow	Accept	Accept	
<b>S75.030</b>	<b>Royal Forest and Bird Protection Society NZ (Forest &amp; Bird)</b>	ECO-02	Amend ECO-02 as below: 'Maintain <b>and enhance</b> indigenous biodiversity within Central Hawke's Bay District.'	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS18.14	Transpower New Zealand Limited		Disallow	Accept	Accept	
S75.031	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P1	Amend ECO-P1 to be clear that only one of the 'Ecological Significance Determination Criteria' needs to be met to be a 'Significant Natural Area'.	Accept in part	Accept in part	Yes
.						
S75.032	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P2	Retain ECO-P2 as proposed.	Accept in part (subject to amendments from other submissions)	Accept in part (subject to amendments from other submissions)	No
.						
S75.033	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P3	Retain ECO-P3 as proposed.	Accept	Accept	No
FS23.99	Kāinga Ora - Homes and Communities		Disallow	Reject	Reject	
S75.034	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P4	Amend ECO-P4 as follows (or relief to similar effect): 'To avoid, remedy or mitigate adverse effects, including cumulative adverse effects of subdivision, use and development that would result in a loss of indigenous biodiversity values from: 1. Clearance, modification, damage or destruction of large areas of intact indigenous vegetation or habitats of indigenous fauna; 2. Clearance of indigenous vegetation in and on the margins of Lake Whatuma, and other natural wetlands, and braided rivers; ...'	Accept in part (Hearing Stream 1 – Right of Reply dated 4 May 2022)	Accept in part	Yes
FS25.52	Federated Farmers of New Zealand		Disallow	Accept in part	Accept in part	
S75.035	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P6	Retain ECO-P6 as proposed.	Accept	Accept	No
.						
S75.036	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P7	Retain ECO-P7 as proposed.	Accept	Accept	No
.						
S75.037	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-P8	Retain ECO-P8 as proposed.	Accept	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S75.038	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-R1	Within ECO-R1, clearance of 'plantation forestry undergrowth' or 'planted indigenous forestry' should not be allowed without conditions of management to ensure values are protected.	Accept in part (Hearing Stream 1 – Right of Reply dated 18 April 2022)	Accept in part	Yes
FS25.54	Federated Farmers of New Zealand		Disallow	Accept in part	Accept	
FS19.8	Penny Nelson, Director-General of Conservation		Allow in part	Reject	Reject	
S75.039	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-R2	Amend ECO-R2 to have stronger permitted activity conditions.	Reject	Reject	No
FS25.56	Federated Farmers of New Zealand		Disallow	Accept	Accept	
FS19.9	Penny Nelson, Director-General of Conservation		Allow in part	Reject	Reject	
S75.040	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-R3	Amend ECO-R3 significantly, to strengthen in line with the Resource Management Act.	Reject	Accept in part	No
S75.041	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-R4	For ECO-R4, further checks are required to ensure the area is not 'significant' and does not meet 'Ecological Significance Determination Criteria' in ECO-APP1.	Accept in part (Hearing Stream 1 – Right of Reply dated 4 May 2022)	Accept in part	Yes
FS25.60	Federated Farmers of New Zealand		Disallow	Accept in part	Accept in part	
S75.042	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-R5	Retain ECO-R5 as proposed.	Reject (Hearing Stream 1 – Right of Reply dated 4 May 2022)	Reject	Yes
FS5.080	Ngā hapū me ngā marae o Tamatea		Allow	Reject	Accept	
FS19.10	Penny Nelson, Director-General of Conservation		Allow in part	Reject	Accept	
S75.043	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-R6	Retain ECO-R6 as proposed.	Accept in part (Subject to amendments from other submissions)	Accept in part	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS5.079	Ngā hapū me ngā marae o Tamatea		Allow	Accept in part (Subject to amendments from other submissions)	Accept in part	
FS19.11	Penny Nelson, Director-General of Conservation		Allow in part	Accept in part (Subject to amendments from other submissions)	Accept in part	
S75.044	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AM1	Retain ECO-AM1 as proposed.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
.						
S75.045	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AM2	Retain ECO-AM2 as proposed.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
.						
S75.046	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-M1	Retain ECO-M1 as proposed.	Accept	Accept	No
.						
S75.047	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-M3	Retain ECO-M3 as proposed, and ensure other provisions that reference offsetting are consistent. Internal cross-reference should also be made here to ECO-APP2 'Principles for Biodiversity Offsetting'.	Accept	Accept	Yes
.						
S75.048	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-M4	Amend ECO-M4 to clarify where/when rates relief or other financial assistance would be granted.	Reject	Reject	No
.						
S75.049	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-M5	Retain ECO-M5 as proposed.	Accept	Accept	No
.						
S75.050	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-M6	Retain ECO-M6 as proposed.	Accept	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
.						
S75.051	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AER1	Retain ECO-AER1 as proposed.	Accept	Accept	No
.						
S75.052	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AER2	Retain ECO-AER2 as proposed.	Accept	Accept	No
.						
S75.053	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AER3	Retain ECO-AER3 as proposed.	Accept	Accept	No
.						
S75.054	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AER4	Retain ECO-AER4 as proposed.	Accept	Accept	No
.						
S75.055	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AER5	Delete ECO-AER5, or amend to clarify how it fits into the framework.	Accept	Accept	Yes
.						
S75.056	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-AER6	Retain ECO-AER6 as proposed.	Accept	Accept	No
.						
S75.057	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-APP1	Amend the "Ecological Significance Determination Criteria" in ECO-APP1 to be clear that an area only needs to meet one of any of the criteria from 1-7 to be a 'Significant Natural Area (SNA)'.	Reject	Reject	No
FS23.100	Kāinga Ora - Homes and Communities		Disallow	Accept	Accept	
S75.058	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-APP2	Retain ECO-APP2 as proposed.	Accept	Accept	No
.						



Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S75.059	Royal Forest and Bird Protection Society NZ (Forest & Bird)	ECO-SCHED5	Retain ECO-SCHED5 as proposed, including all listed SNAs.	Accept	Accept	No
S75.090	Royal Forest and Bird Protection Society NZ (Forest & Bird)	Definitions	Add new definitions for 'Biodiversity Offset' and 'Biodiversity Compensation' as follows: <b>'BIODIVERSITY OFFSET means a measurable conservation outcome resulting from actions designed to compensate for residual, adverse biodiversity effects arising from activities after appropriate avoidance, remediation, and mitigation measures have been applied. The goal of a biodiversity offset is to achieve no net loss, and preferably a net gain of indigenous biodiversity values. Offsetting should be consistent with the best practice offsetting principles.'</b> BIODIVERSITY COMPENSATION a measurable conservation outcome resulting from actions designed to compensate for residual, adverse biodiversity effects arising from activities after appropriate avoidance, remediation, and mitigation measures have been applied. Biodiversity compensation should be as consistent as possible with the best practice offsetting principles.'	Accept in part	Accept in part	No
FS19.1	Penny Nelson, Director-General of Conservation		Allow in part	Accept in part	Accept in part	
FS23.97	Kāinga Ora - Homes and Communities		Disallow	Reject	Reject	
FS5.021	Ngā hapū me ngā marae o Tamatea		Allow	Accept in part	Accept in part	
S78.005	Waka Kotahi NZ Transport Agency	ECO-R3	Retain ECO-R3(1)(b)(vi) and Note (1), as written.	Accept	Accept in part	No
S79.062	Transpower New Zealand Ltd	ECO-P1	Retain ECO-P1.	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	No
FS9.417	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
S79.063	Transpower New Zealand Ltd	ECO-P9	Retain ECO-P9.	Accept	Accept	No
FS9.418	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S79.064	Transpower New Zealand Ltd	ECO-R3	Retain ECO-R3, and in particular clause (b)(i) and (vi).	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
FS9.419	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
S79.065	Transpower New Zealand Ltd	ECO-R4	Retain ECO-R4.	Accept	Accept in part	No
FS9.420	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Accept in part	
S79.066	Transpower New Zealand Ltd	ECO-R6	Amend ECO-R6 to provide a discretionary activity status for tree trimming and clearance necessary to provide for the 'ongoing safe and efficient operation, maintenance and upgrading of network utilities, but excluding their expansion, where carried out by the respective network utility operator'.	Accept in part	Accept in part	Yes
FS9.421	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept in part	
S81.010	Horticulture New Zealand	CLEARANCE (Definition)	Re-name 'Clearance' to 'Indigenous Vegetation Clearance'. Correct error in (f) to separate into two points.	Accept in part	Accept in part	Yes
FS5.012	Ngā hapū me ngā marae o Tamatea		Disallow	Reject	Reject	
S81.017	Horticulture New Zealand	INDIGENOUS VEGETATION (Definition)	Amend the definition of 'Indigenous Vegetation' as follows: 'vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. <del>Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance.</del>	Accept	Accept	Yes
FS5.006	Ngā hapū me ngā marae o Tamatea		Disallow	Reject	Reject	
S81.031	Horticulture New Zealand	WETLAND (NATURAL) / NATURAL WETLAND (Definition)	Amend the definition of 'Wetland (Natural) / Natural Wetland' to be consistent with NPS-FM, as follows: <del>a habitat for indigenous plant communities and/or indigenous fauna communities (excluding exotic rush /pasture communities) characteristic of wetland ecosystem types, as defined by Johnson P &amp; Gerbeaux P (Wetland Types in New Zealand, Department of Conservation (2004)), and which meets one of more of the Ecological Significance Determination Criteria for the Central Hawke's Bay District listed in ECO-APP1 in the District Plan.</del> means a wetland (as defined in the Act) that is not: (a) a wetland constructed by artificial means (unless it was	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			constructed to offset impacts on, or restore, an existing or former natural wetland); or(b) a geothermal wetland; or(c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling.'			
FS5.015	Ngā hapū me ngā marae o Tamatea		Allow in part	Reject	Reject	
<b>S81.072</b>	<b>Horticulture New Zealand</b>	ECO-R1	Retain ECO-R1.	Accept in part (subject to amendments from other submissions)	Accept in part (subject to amendments from other submissions)	
<b>S81.073</b>	<b>Horticulture New Zealand</b>	ECO-RXX (New rule)	Add a new rule in the 'ECO - Ecosystems and Indigenous Vegetation' chapter that enables a biosecurity response involving indigenous vegetation clearance, where that vegetation is infected by an unwanted organism as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.	Accept	Accept	Yes
FS25.53	Federated Farmers of New Zealand		Disallow	Accept in part	Accept in part	
FS5.069	Ngā hapū me ngā marae o Tamatea		Disallow	Reject	Reject	
<b>S85.001</b>	<b>Rayonier Matariki Forests</b>	ECO - Ecosystems and Indigenous Biodiversity	Delete the final sentence from 'ECO - Introduction' as follows: ' <del>...It is anticipated that the approach in this District Plan will go a long way towards giving effect to the likely requirements of the NPS-IB.</del> ' And provide information as to why plantation forestry provisions do not align with the NES-PF and the provisions within the draft NPS-IB.	Reject	Reject	No
FS22.001	Ernslaw One Limited		Allow	Reject	Reject	
<b>S85.002</b>	<b>Rayonier Matariki Forests</b>	ECO-I1	Delete ECO-I1, including the associated 'Explanation'.	Reject	Reject	No
FS22.002	Ernslaw One Limited		Allow	Reject	Reject	
<b>S85.003</b>	<b>Rayonier Matariki Forests</b>	ECO-P1	Retain ECO-P1 as proposed.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS22.005	Ernslaw One Limited		Allow	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	
<b>S85.004</b>	<b>Rayonier Matariki Forests</b>	ECO-APP1	Amend 'Criterion 6' of the 'Ecological Significance Determination Criteria' in ECO-APP1 as follows: 'CRITERION 6 Distinctiveness: - It is indigenous vegetation or habitat on an ecosystem type that is under-represented (30% or less of its known or likely original extent remaining) in an Ecological District, or Ecological Region, or nationally; OR - It is wetland, sand dune, braided river or estuarine habitats, or a distinctive assemblage or community of indigenous species habitat for indigenous plant communities and/or indigenous fauna communities (excluding exotic rush/pasture communities <b>and exotic plantation forestry</b> ) that has not been created and subsequently maintained for or in connection with: + waste treatment; + wastewater renovation; + hydroelectric power lakes; + water storage for irrigation; <del>or</del> + water supply storage, including stock water storage; <b>or +Is this + fire ponds.</b>	Reject	Accept in part	Yes
FS22.013	Ernslaw One Limited		Allow	Reject	Accept in part	
<b>S85.005</b>	<b>Rayonier Matariki Forests</b>	ECO-P2	Amend ECO-P2 as follows: 'To protect areas <b>identified and mapped in the district plan</b> of significant indigenous vegetation and/or significant habitats of indigenous fauna from the adverse effects of landuse and development, <del>including earthworks and vegetation clearance.</del>	Reject	Reject	No
FS22.007	Ernslaw One Limited		Allow	Reject	Reject	
<b>S85.006</b>	<b>Rayonier Matariki Forests</b>	ECO-P4	Amend ECO-P4 to state that this policy does not apply to plantation forestry under the NES-PF.	Reject	Reject	No
FS22.008	Ernslaw One Limited		Allow	Reject	Reject	
<b>S85.007</b>	<b>Rayonier Matariki Forests</b>	ECO-R1	Retain ECO-R1 as proposed.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
<b>S85.008</b>	<b>Rayonier Matariki Forests</b>	ECO-R2	Add 'Note' to ECO-R2 (as contained in ECO-R3) as follows: '... <b>Note: Afforestation and vegetation clearance of indigenous vegetation associated with plantation forestry, is subject to the Resource Management</b>	Accept in part	Accept in part	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			(National Environmental Standards for Plantation Forestry) Regulations 2017.'			
FS22.011	Ernslaw One Limited		Allow Add 'Note' to ECO-R2 (as contained in ECO-R3) as follows: "... <b>Note: Afforestation and vegetation clearance of indigenous vegetation associated with plantation forestry, is subject to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</b> "	Accept in part	Accept in part	
S85.009	Rayonier Matariki Forests	ECO-R4	Add 'Note' to ECO-R4 (as contained in ECO-R3) as follows: ' <b>...Note: Afforestation and vegetation clearance of indigenous vegetation associated with plantation forestry, is subject to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</b> '	Accept in part	Accept in part	No
FS22.012	Ernslaw One Limited		Allow Add 'Note' to ECO-R4 (as contained in ECO-R3) as follows: "... <b>Note: Afforestation and vegetation clearance of indigenous vegetation associated with plantation forestry, is subject to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</b> "	Accept in part	Accept in part	
S85.018	Rayonier Matariki Forests	INDIGENOUS VEGETATION (Definition)	Amend the definition of 'Indigenous Vegetation' as follows: 'vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance <b>but does not include indigenous understorey of Plantation Forests.</b> '	Reject	Reject	No
FS5.008	Ngā hapū me ngā marae o Tamatea		Disallow	Accept	Accept	
FS19.5	Penny Nelson, Director-General of Conservation		Allow in part	Reject	Reject	
S85.021	Rayonier Matariki Forests	[General]	Where wanting to provide more stringent provisions than the NES-PF then undertake a proper assessment of the provisions and the impact on plantation forestry.	Reject	Reject	No
S90.030	Centralines Limited	ECO-R3	Retain ECO-R3 as notified.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S91.001	Patricia Oldfield	ECO-SCHED5	Relevant answers to the following questions in respect of SNA-133: <ul style="list-style-type: none"> <li>- How does the SNA affect ownership of land?</li> <li>- What stock can we run in the SNA area that is proposed?</li> <li>- If the SNA goes ahead, what can we still do and not do within the area?</li> <li>- Who will maintain the area if the SNA goes ahead?</li> <li>- How will it be managed in CHB and the Tikokino area?</li> <li>- What are the next steps after feedback for the proposed SNA areas when this is closed off?</li> </ul>	Reject	Reject	No
S105.001	James Bridge	CLEARANCE (Definition)	Amend the definition of 'Clearance' as follows: <del>'in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line: a. application of chemicals b. application of seed of exotic pasture c. burning d. changes to soils, hydrology, or landform e. drainage f. drilling or excavation discharge of toxic substances g. mob stocking h. overplanting'</del> <b>means the cutting, burning, clearing or destruction (including destruction by spraying) of trees, shrubs or plants but excluding pasture grasses, forest thinning's, agricultural and horticultural crops and noxious weeds covered by the Regional Plant Pest Management Strategy prepared under the Biosecurity Act 1993. It excludes the normal maintenance of legally established structures, roads, tracks, railway lines and river beds. Clearance only occurs when 5m2 or more of shrubs or plants, or 5 or more trees are affected.'</b>	Reject	Reject	No
FS5.009	Ngā hapū me ngā marae o Tamatea		Disallow	Accept	Accept	
S105.002	James Bridge	INDIGENOUS VEGETATION (Definition)	Amend the definition of 'Indigenous Vegetation' as follows: <del>'vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance'</del> <b>means a plant community in which species indigenous to that part of New Zealand are important in terms of coverage, structure and/or species diversity. For these purposes, coverage by indigenous species or number of indigenous species shall exceed 30% of the total area or total number of species present, where structural dominance is not attained. Where structural dominance occurs (that is indigenous species are in the tallest stratum and are</b>	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			visually conspicuous) coverage by indigenous species shall exceed 20% of the total area.'			
FS5.004	Ngā hapū me ngā marae o Tamatea		Disallow	Accept	Accept	
<b>S117.056</b>	<b>Chorus New Zealand Limited</b>	ECO-R3	Retain ECO-R3.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
FS9.484	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S118.056</b>	<b>Spark New Zealand Trading Limited</b>	ECO-R3	Retain ECO-R3.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
<b>S119.056</b>	<b>Vodafone New Zealand Limited</b>	ECO-R3	Retain ECO-R3.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
<b>S120.018</b>	<b>Heretaunga Tamatea Settlement Trust</b>	ECO-OXX (New objective)	Add a new objective in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows: <b>'The relationship of tangata whenua and their traditions and culture with indigenous vegetation and fauna are recognised and provided for.'</b>	Accept	Accept	Yes
FS5.076	Ngā hapū me ngā marae o Tamatea		Allow	Accept	Accept	
<b>S120.020</b>	<b>Heretaunga Tamatea Settlement Trust</b>	ECO-OXX (New objective)	Include two new objectives in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows: <b>'ECO-03 The relationship of tangata whenua and their culture and traditions, values, interests and associations associated with waterbodies are recognised and provided for.ECO-04 Subdivision, use and development within the District is undertaken in an integrated manner that recognises Te Mana o te Wai for all receiving waters</b>	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW-Strategic Direction Chapter)		No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			and minimises changes in the hydrological regime of those waters.'			
FS5.077	Ngā hapū me ngā marae o Tamatea		Allow	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW- Strategic Direction Chapter)		
FS25.50	Federated Farmers of New Zealand		Disallow	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW- Strategic Direction Chapter)		
<b>S120.021</b>	<b>Heretaunga Tamatea Settlement Trust</b>	ECO-PXX (New policy)	Add a new policy in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows: <b>'ECO-P10 Recognise, protect and enhance significant indigenous biodiversity and natural wetlands, while recognising and providing for Te Mana o te Wai.'</b>	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW- Strategic Direction Chapter)		No
FS25.51	Federated Farmers of New Zealand		Disallow	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW- Strategic Direction Chapter)		
FS5.078	Ngā hapū me ngā marae o Tamatea		Allow	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW- Strategic Direction Chapter)		



Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S120.022	Heretaunga Tamatea Settlement Trust	ECO-MXX (New method)	Add a new method in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows: <b>'Methods to recognise and provide for Te Mana o te Wai in receiving waters.'</b>	No decision (transferred for consideration as part of Hearing Stream 4 Topic TW- Strategic Direction Chapter)		No
S121.015	Federated Farmers of New Zealand	ECO-01	Conditional support for ECO-01 on the condition that a new objective is included [refer submission point S121.017].	Accept in part	Accept in part	No
FS9.15	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
S121.016	Federated Farmers of New Zealand	ECO-02	Conditional support for ECO-01[ECO-02?] on the condition that a new objective is included [refer submission point S121.017].	Accept in part	Accept in part	
FS9.16	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
FS17.41	Horticulture New Zealand		Allow	Accept in part	Accept in part	
S121.017	Federated Farmers of New Zealand	ECO-OXX (New objective)	Add three new objectives in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows: <b>'Protect the District's areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, particularly those within wetlands, braided rivers, and coastal margins, from activities that may adversely affect them. "Maintain indigenous biodiversity within Central Hawke's Bay District. "Provide for appropriate trimming and clearance of indigenous vegetation in order to enable the economic, social and cultural wellbeing of people and their health and safety.'</b>	Accept in part	Accept in part	Yes
FS9.17	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
FS5.075	Ngā hapū me ngā marae o Tamatea		Allow in part	Accept in part	Accept in part	
FS17.44	Horticulture New Zealand		Allow	Accept in part	Accept in part	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S121.018	Federated Farmers of New Zealand	ECO-P1	Amend ECO-P1 as follows: 'To identify Significant Natural Areas (being areas of significant indigenous vegetation and/or significant habitats of indigenous fauna) in the District where they meet <del>one</del> <b>two</b> or more of the criteria below, <b>conduct ground-truthing</b> and describe these areas in ECO-SCHED5 and show their location on the Planning Maps.'	Reject	Reject	No
FS22.006	Ernslaw One Limited		Allow in part	Reject	Reject	
FS9.18	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
FS17.45	Horticulture New Zealand		Allow	Reject	Reject	
S121.019	Federated Farmers of New Zealand	ECO-P1	Amend the 'Ecological Significance Determination Criteria' in ECO-P1 as follows: ' <del>CRITERION 1 Protection Status: It is indigenous vegetation or habitat for indigenous fauna that is currently, or is recommended to be, set aside by Government statute or covenant, or by the Nature Heritage Fund, or Ngā Whenua Rāhui committees, or the Queen Elizabeth the Second National Trust Board of Directors as an Open Space Covenant, specifically for the protection of biodiversity, and meets at least one of criteria 2-7.</del> CRITERION 2 ... CRITERION 3 ... CRITERION 4 ... CRITERION 5 ... CRITERION 6 ... CRITERION 7 Ecological Context: It is an area of indigenous vegetation or naturally occurring habitat that: • is moderate to large..... OR • is critical to the self-sustainability.... OR • is a site that provides a full or partial buffer.... Refer District Plan ECO-APP1 for Quantifying Thresholds and Attribute Assessment Guidance. <b>Exemptions:- Indigenous vegetation or habitat for indigenous fauna that is currently, or is recommended to be, set aside by Government statute or covenant, or by the Nature Heritage Fund, or Ngā Whenua Rāhui committees, or the Queen Elizabeth the Second National Trust Board of Directors as an Open Space Covenant, specifically for the protection of biodiversity, are exempt from becoming an SNA.- Areas of domestic or ornamental landscape</b>	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			planting; planted shelter belts and riparian areas; plantation forestry undergrowth; and planted indigenous forestry.'			
FS17.46	Horticulture New Zealand		Allow	Reject	Reject	
FS9.19	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
<b>S121.020</b>	<b>Federated Farmers of New Zealand</b>	ECO-P2	Amend ECO-P2 as follows: 'To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna from the <b>inappropriate</b> adverse effects of landuse and development, including earthworks and vegetation clearance, <b>while providing for some appropriate activities.</b> '	Reject	Reject	No
FS9.20	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
<b>S121.021</b>	<b>Federated Farmers of New Zealand</b>	ECO-P3	Delete ECO-P3.	Reject	Reject	No
FS9.21	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
<b>S121.022</b>	<b>Federated Farmers of New Zealand</b>	ECO-P4	Delete ECO-P4.	Reject	Reject	No
FS9.22	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
<b>S121.023</b>	<b>Federated Farmers of New Zealand</b>	ECO-P5	Retain ECO-P5 as proposed.	Accept	Accept	No
FS9.23	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S121.024</b>	<b>Federated Farmers of New Zealand</b>	ECO-P6	Retain ECO-P6 as proposed.	Accept	Accept	No
FS9.24	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S121.025</b>	<b>Federated Farmers of New Zealand</b>	ECO-P7	Retain ECO-P7 as proposed.	Accept	Accept	No
FS22.009	Ernslaw One Limited		Allow	Accept	Accept	

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FS9.25	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S121.026</b>	<b>Federated Farmers of New Zealand</b>	ECO-P8	Retain ECO-P8 as proposed.	Accept	Accept	No
FS9.26	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S121.027</b>	<b>Federated Farmers of New Zealand</b>	ECO-PXX (New policy)	Add a new policy in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows: <b>'Sites that are already protected by a registered covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or Reserve Management Plan approved under the Reserves Act 1977; already achieve the protection of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance under Section 6 of the Resource Management Act 1991, and do not need to be regulated by the District Plan further.'</b>	Reject	Accept in part	Yes
FS9.27	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Reject	
<b>S121.028</b>	<b>Federated Farmers of New Zealand</b>	ECO-R1	Delete ECO-R1 as follows: <del>'Trimming or clearance of indigenous vegetation within any of the following: Areas of domestic or ornamental landscape planting; or Planted shelter belts; or Plantation forestry undergrowth; or Planted indigenous forestry.'</del> And amend the definition of 'Indigenous Vegetation' as follows: <del>'vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance. Excludes areas of domestic or ornamental landscape planting; planted shelter belts and riparian areas; plantation forestry undergrowth; and planted indigenous forestry.'</del> And exclude 'planted vegetation' from being classified as an SNA [refer submission point S121.237].	Reject	Reject	No
FS9.28	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS17.47	Horticulture New Zealand		Allow	Reject	Reject	
<b>S121.029</b>	<b>Federated Farmers of New Zealand</b>	ECO-R2	Retain ECO-R2(1) and (3).	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	No
FS9.29	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S121.030</b>	<b>Federated Farmers of New Zealand</b>	ECO-R3	<p>Amend ECO-R3 as follows:</p> <p>'Trimming or clearance of indigenous vegetation inside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands)</p> <p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. ...</p> <p>OR</p> <p>b. Limited to trimming or clearance that is:</p> <p>...</p> <p>ii. required to remove deadwood, wind-thrown trees, or chronically diseased indigenous vegetation, <del>where an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that the indigenous vegetation is no longer independently viable or poses a risk;</del> or</p> <p>...</p> <p>iv. required for pest control undertaken by the Department of Conservation, Hawke's Bay Regional Council or Central Hawke's Bay District Council, and removal of material infected by an unwanted organism under the Biosecurity Act 1993; or</p> <p>...</p> <p>x. ....; <b>or</b></p> <p><b>xi. Required to construct and maintain stock crossings and bridges; or</b></p> <p><b>xii. Required for firebreaks.'</b></p>	Accept in part	Accept in part	Yes
FS9.30	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S121.031	Federated Farmers of New Zealand	ECO-R4	Amend ECO-R4 as follows: 'Trimming or clearance of indigenous vegetation outside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna <b>Outside an SNA</b> Manuka and Kanuka Species Only 1. Activity Status: PER Where the following conditions are met: a. <b>Unlimited.</b> Limited to: i. clearance of no more than 1 hectare per site per calendar year. ii. Trees to be cleared must be: a. no more than 15cm in diameter measured 1.4m from the highest point of ground level at the base of the tree; and b. must have an average canopy height of less than 6 metres. 2. ... All Other Indigenous Vegetation Species 3. Activity Status: PER Where the following conditions are met: a. <b>Unlimited.</b> Limited to: i. clearance of no more than 1 hectare per site per calendar year. ii. Trees to be cleared must be: a. no more than 15cm in diameter measured 1.4m from the highest point of ground level at the base of the tree; and b. must have an average canopy height of less than 6 metres. 4. ...'	Reject	Reject	No
FS9.31	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
S121.032	Federated Farmers of New Zealand	ECO-R5	Delete ECO-R5.	Accept (Hearing Stream 1 – Right of Reply dated 4 May 2022)	Accept	Yes
FS9.32	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
S121.033	Federated Farmers of New Zealand	ECO-R6	Delete ECO-R6. And replace with a provision in ECO-R3 that permits some activities within a wetland SNA. And wetland locations and extent within SNAs needs to be identified in the Schedule to provide certainty as to where any specific wetland provisions apply.	Reject	Accept in part	Yes
FS9.33	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
FS5.068	Ngā hapū me ngā marae o Tamatea		Disallow	Accept	Accept	
S121.034	Federated Farmers of New Zealand	ECO-SCHED5	Adjust SNA boundaries and information according to landowner submissions. And introduce a minimum area threshold limit for sites before it is classified as an SNA to account for the margin of error. And delete SNA sites	Accept in part	Accept in part	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			protected by QEII or similar from ECO-SCHED5. And inform landowners as to what criteria their SNA sites meet.			
FS9.34	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
<b>S121.232</b>	<b>Federated Farmers of New Zealand</b>	CLEARANCE (Definition)	Amend the definition of 'Clearance' as follows: 'in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line: a. application of chemicals b. application of seed of exotic pastures c. burning d. changes to soils, hydrology, or landforms e. drainage f. <del>drilling or excavation [g.]</del> <del>discharge of toxic substances [h.]</del> mob- stocking [i.] overplanting'	Accept in part	Accept in part	Yes
FS9.232	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	
FS23.33	Kāinga Ora - Homes and Communities		Disallow	Reject	Reject	
FS5.011	Ngā hapū me ngā marae o Tamatea		Disallow	Reject	Reject	
<b>S121.237</b>	<b>Federated Farmers of New Zealand</b>	INDIGENOUS VEGETATION (Definition)	Amend the definition of 'Indigenous Vegetation' as follows: 'vegetation or ground cover that are indigenous in or endemic to any of the ecological districts of which the Central Hawke's Bay District is part. <del>Includes vegetation with these characteristics that has been regenerated with human assistance following disturbance:</del> <b>Excludes areas of domestic or ornamental landscape planting; planted shelter belts and riparian areas; plantation forestry undergrowth; and planted indigenous forestry.'</b>	Accept in part	Accept in part	Yes
FS5.007	Ngā hapū me ngā marae o Tamatea		Disallow	Reject	Reject	
FS9.237	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
FS17.6	Horticulture New Zealand		Allow in part Accept the submission to amend the definition of indigenous vegetation.	Accept in part	Accept in part	
S121.250	Federated Farmers of New Zealand	TRIMMING (Definition)	Amend the definition of 'Trimming' as follows: 'includes either of the following: a. pruning of vegetation and trees <b>to make smaller or remove unwanted pieces</b> including the removal of broken branches, dead wood or diseased vegetation b. selective branch removal to increase light and air movement or to improve tree health <b>including the removal of broken branches, dead wood or diseased vegetation.</b> But excludes clearance.'	Reject	Reject	No
FS17.11	Horticulture New Zealand		Allow	Reject	Reject	
FS5.020	Ngā hapū me ngā marae o Tamatea		Disallow	Accept	Accept	
FS9.250	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
S121.252	Federated Farmers of New Zealand	ECO-APP1	Amend 'Quantifying Thresholds & Attribute Assessment Guidance' in ECO-APP1 as follows: '... b. For an area to be significant, and ranked as a significant natural area, <del>two-one</del> or more of criteria 2- 7 is to be met. ...x. <b>Excludes Indigenous vegetation or habitat for indigenous fauna that is currently, or is recommended to be, set aside by Government statute or covenant, or by the Nature Heritage Fund, or Ngā Whenua Rāhui committees, or the Queen Elizabeth the Second National Trust Board of Directors as an Open Space Covenant, specifically for the protection of biodiversity, are exempt from becoming an SNA.</b> xx. <b>Excludes areas of domestic or ornamental landscape planting; planted shelter belts and riparian areas; plantation forestry undergrowth; and planted indigenous forestry.'</b>	Reject	Reject	No
FS9.252	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	Accept	
S125.004	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	WETLAND (NATURAL) / NATURAL WETLAND (Definition)	Retain the definition of 'Wetland (Natural)/Natural Wetland', but amend it to be consistent with the definition in the NPSFM 2020. The definition should include the following wording: 'means a wetland (as defined in the RMA) that is not:(a) A wetland constructed by artificial means (unless it is constructed to offset impacts on, or restore, an existing or former natural wetland); or(b) A geothermal wetland; or(c) Any areas of improved pasture that, at the	Reject	Reject	No



Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling.'			
S125.051	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-IXX (New issue)	Add a new issue in the 'ECO - Ecosystems and Indigenous Biodiversity' chapter in the Proposed Plan as follows (or alternative wording to similar effect): <b>'The inability of mana whenua to exercise kaitiakitanga in the protection of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna.'</b>	Accept in part	Accept in part	Yes
FS13.031	Heretaunga Tamatea Settlement Trust		Allow	Accept	Accept	
S125.052	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P1	Retain ECO-P1 as notified.	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	No
S125.053	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P2	Retain ECO-P2 as notified.	Accept (subject to amendments from other submissions)	Accept (subject to amendments from other submissions)	No
S125.054	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P3	Retain ECO-P3 as notified.	Accept	Accept	No
S125.055	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P4	Retain ECO-P4 as notified.	Accept	Accept	No
S125.056	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P5	Retain ECO-P5 as notified.	Accept	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S125.057	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P6	Retain ECO-P6 as notified.	Accept	Accept	No
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S125.058	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P7	Retain ECO-P7 as notified.	Accept	Accept	No
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S125.059	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P8	Retain ECO-P8 as notified.	Accept	Accept	No
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S125.060	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO-P9	Retain ECO-P9 as notified.	Accept	Accept	No
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S125.061	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO - Rules	Retain 'ECO - Rules' as notified, but make amendments to ensure that they provide an appropriate pathway for Māori landowners to be able to actively use their whenua.	Reject	Reject	No
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S125.075	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO - Assessment Matters	Amend 'ECO - Assessment Matters' to ensure that the rules provide an appropriate pathway for Māori landowners to be able to actively use their whenua.	Accept	Accept	Yes
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S125.076	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	ECO - Methods	Amend 'ECO - Methods' to ensure that the rules provide an appropriate pathway for Māori landowners to be able to actively use their whenua.	Reject	Reject	No
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Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S126.003	Hawke's Bay District Health Board	ECO - Ecosystems and Indigenous Biodiversity	That the District Plan rules be broadened to ensure that land use and water takes do not impact negatively on indigenous vegetation, including the creation of conditions that lead to these natural systems being diminished and or threatened. We believe the rules should be broadened to prevent against the impact on natural systems such as wetlands and Indigenous vegetation. This includes strengthening rules to protect wetlands from being drained for the purposes of land to be freed up for grazing or cropping etc. We also believe rules should be broadened to ensure water use does not threaten indigenous vegetation by either taking too much water out of the system, or the diversion of water away from remnant indigenous vegetation through the alteration of drainage systems.	Reject	Reject	No
FS25.48	Federated Farmers of New Zealand		Disallow	Accept	Accept	
FS5.072	Ngā hapū me ngā marae o Tamatea		Allow in part	Reject	Reject	
FS17.43	Horticulture New Zealand		Disallow	Accept	Accept	
S129.002	Kāinga Ora - Homes and Communities (Kainga Ora)	CLEARANCE (Definition)	Amend the definition of 'Clearance' as follows: 'in relation to indigenous vegetation means the felling, burning, removal, damage or destruction of the vegetation, including the following activities within the vegetation drip line: a. application of chemicals b. application of seed of exotic pastures c. burning, <del>changes to soils, hydrology, or landforms</del> e. drainage f. drilling or excavation g. discharge of toxic substances h. <del>mob-stocking, overplanting</del> '	Accept in part (Hearing Stream 1 – Right of Reply dated 18 April 2022)	Accept in part	Yes
FS5.013	Ngā hapū me ngā marae o Tamatea		Disallow	Accept in part	Accept in part	
S129.062	Kāinga Ora - Homes and Communities (Kainga Ora)	ECO - Ecosystems and Indigenous Biodiversity	Kāinga Ora seeks amendments to address the below matters: 1. Appropriate differentiation is needed between trimming versus clearance activities in relation to indigenous vegetation and habitat, the function each of these activities plan, and the likely discrepancies in adverse effects. 2. Simplification and consolidation of assessment matters so as to provide greater certainty about the likely adverse effects requiring mitigation. 3. Kāinga Ora opposes reference to terms 'high natural character areas' and 'significant amenity features' in that these terms are not defined within the plan, and it is presumed that these areas do not meet the threshold for consideration as 'outstanding natural landscapes and	Reject	Accept in part	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			features.' Given the lack of clarity around what constitutes a 'high natural character area' or a 'significant amenity feature,' it is unclear to what degree the plan should have regard to these matters within an RMA context.			
FS5.074	Ngā hapū me ngā marae o Tamatea		Allow in part	Reject	Accept in part	
FS18.13	Transpower New Zealand Limited		Allow in part The submission point be allowed in part in so far as it relates to clarity sought as to what constitutes a 'high natural character area' or a 'significant amenity feature.	Reject	Accept in part	
<b>S132.001</b>	<b>Ernslaw One Limited</b>	ECO-R1	Retain ECO-R1.	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	No
FS5.067	Ngā hapū me ngā marae o Tamatea		Allow	Accept in part (Subject to amendments from other submissions)	Accept in part (Subject to amendments from other submissions)	
<b>S132.002</b>	<b>Ernslaw One Limited</b>	ECO-R4	Provide clearer direction for 'plantation forestry activities' in respect of the application of ECO-R4.	Accept in part	Accept in part	Yes
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<b>S132.003</b>	<b>Ernslaw One Limited</b>	ECO-R5	Provide clearer direction for 'plantation forestry activities' in respect of the application of ECO-R5.	Accept in part	Accept in part	Yes
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<b>S132.004</b>	<b>Ernslaw One Limited</b>	ECO-R6	Provide clearer direction for 'plantation forestry activities' in respect of the application of ECO-R6.	Accept in part	Accept in part	Yes
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<b>S132.005</b>	<b>Ernslaw One Limited</b>	ECO - Ecosystems and Indigenous Biodiversity	Include policy direction and regulatory mechanisms to require that stock is excluded from 'significant indigenous vegetation and habitats'.	Reject	Reject	No
FS5.071	Ngā hapū me ngā marae o Tamatea		Allow	Reject	Reject	
FS25.49	Federated Farmers of New Zealand		Disallow	Accept	Accept	
<b>S132.007</b>	<b>Ernslaw One Limited</b>	ECO-P5	Retain ECO-P5.	Accept	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (As per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
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S132.008	Ernslaw One Limited	ECO-M3	Retain ECO-M3.	Accept	Accept	No
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S132.009	Ernslaw One Limited	ECO-APP2	Retain ECO-APP2.	Accept	Accept	No
.						
S132.010	Ernslaw One Limited	ECO-P7	Retain ECO-P7.	Accept	Accept	No
.						
S132.011	Ernslaw One Limited	ECO-P8	Retain ECO-P8.	Accept	Accept	No
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S134.007	Ngāti Kere Hapū Authority (Ngāti Kere Hapu Authority)	ECO - Ecosystems and Indigenous Biodiversity	[Ensure provision for papakāinga - kaumatua housing in the Proposed Plan is not impeded by 'Significant Natural Area' provisions where these areas overlay residual lands owned by Māori.] We recommend that CHBDC launch an intensive communication and with mana whenua of Tamatea around land and housing development.	Accept in part	Accept in part	No
FS13.030	Heretaunga Tamatea Settlement Trust		Allow	Reject	Reject	
FS5.073	Ngā hapū me ngā marae o Tamatea		Allow in part	Reject	Reject	