

SECTION 42A REPORT

Report on submissions and further submissions

Topic: Ecosystems and
Indigenous Biodiversity

Report prepared by: C. O'Callaghan

Dated: 20 September 2024

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List of submitters and further submitters addressed in this report

46	Federated Farmers
47	Forest and Bird
08	Manulife Forest Management New Zealand Ltd (MFMNZL)
31	Transpower New Zealand Ltd (Transpower)
10	Waikato Regional Council (WRC)
33	King Country Energy
43	Graymont (NZ) Ltd
38	Te Tokanganui- a-noho Whare (TTRMC)
50	Te Nehenehenui
04	New Zealand Agricultural Aviation Association (NZAAA)
09	Chorus New Zealand Limited, Connexa Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited
12	Heli A1 Limited
17	Waka Kotahi
18	Auckland Waikato Fish and Game (AWFG)
27	Horticulture New Zealand (Hort NZ)
51	KiwiRail Holdings Ltd
19	PF Olsen
30	New Zealand Forest Managers (NZFM)
11	QueenElizabeth the Second National Trust (QEII Trust)
16	Fire and Emergency New Zealand (FENZ)
42	Ventus Energy
02	New Zealand Helicopter Association (NZHA)
21	New Zealand Defence Force (NZDF)
24	Ministry of Education (MoE)
06	Tim Stokes
15	Jeff Littin
26	Waitomo District Council
49	Taharoa Holdings Ltd
53	Department of Conservation (DoC)

FS05	Federated Farmers
FS03	Department of Conservation (DoC)
FS26	Waikato Regional Council (WRC)
FS12	Manulife Forest Management New Zealand Ltd (MFMNZL)
FS19	PF Olsen
FS08	Graymont (NZ) Ltd
FS10	King Country Energy
FS25	Ventus Energy
FS20	Sheryl Paekau
FS23	Te Nehenehenui
FS13	New Zealand Agricultural Aviation Association (NZAAA)
FS07	Grant Lennox
FS22	Chorus New Zealand Limited, Connexa Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited
FS15	New Zealand Helicopter Association (NZHA)
FS27	Waka Kotahi
FS17	NZ Speleological Society
FS18	Omya
FS21	Taharoa Ironsands Ltd
FS28	Roy Wetini

1. Introduction

1.1 Qualifications and Experience

1. **My name is Cathy O'Callaghan.** I am contracted by Waitomo District Council to assist with the hearings process for the proposed plan. I hold a first class honours degree in resource and environmental planning from Massey University and a post-graduate qualification in agricultural-environmental science. I have been employed in consenting and policy planning roles in consultancy services, local, regional and central government for over 30 years. I drafted the provisions of the ecosystems and indigenous biodiversity chapter.

1.2 Code of Conduct

2. I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
3. I am authorised to give this evidence on the Council's behalf to the proposed district plan Hearings Commissioners (the Commissioners).

1.3 Conflict of Interest

4. I wish to declare a conflict of interest relating to Horticulture New Zealand. I am the director of a small holding growing kiwifruit and avocados in Thames-Coromandel District. All commercial growers pay a levy to Horticulture New Zealand which in part funds submissions to central and local government. I do not have any property, interests or investment relationships in Waitomo District. To the best of my knowledge, I confirm that I have no other real or perceived conflict of interest.

1.4 Preparation of this report

5. I am the author of this report. The scope of evidence in this report relates to the evaluation of submissions and further submissions received in relation to the provisions related to ecosystems and indigenous biodiversity chapter. This report has been reviewed by Gerry Kessels, the ecologist who assisted Waitomo District Council to identify the significant natural areas and provided expert input into the development of the provisions in the ecosystems and indigenous biodiversity chapter.
6. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. Scope of Report

2.1 Matters addressed by this report

7. The provisions of the ecosystems and indigenous biodiversity chapter, its associated definitions, Appendix 1 and 4, Schedule 6 and the associated planning maps are covered by this report. Some provisions relating to the general rural zone (GRUZ) and the light chapter are also addressed in this report. The scope of my evidence relates to the evaluation of submissions and further submissions received in relation to the provisions associated with the ecosystems and indigenous biodiversity chapter, insofar as they relate to land use (and by reference only, to subdivision).
8. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA). This report considers submissions that were received by the Council in relation to the provisions relating to the management of ecosystems and indigenous biodiversity within the Waitomo proposed district plan. Other effects and activities are addressed in various section 42A reports including natural features and landscapes, natural character and earthworks.

2.2 Overview of the chapter

9. The ecosystems and indigenous biodiversity chapter sets out rules to control the clearance of indigenous vegetation in significant natural areas (SNAs). It provides policy direction for both SNAs and district wide indigenous biodiversity that is not classified as an SNA. To be clear, this chapter does not provide a rule framework for district-wide indigenous biodiversity outside of SNAs. Instead, this is provided for in the GRUZ, natural features and landscapes, natural character and coastal environment chapters and in the natural open space zone.
10. Schedule 6 (also referred to as SCHED6) contains the list of SNAs in the district. Schedule 6 does not provide a full description of the values of each SNA because it was 205 pages long. Instead, Council holds that information and Schedule 6 lists the criteria each site meets along with its significance (international, national, regional or local SNA). The criteria relate to the Waikato Regional Policy Statement (WRPS), APP5 Criteria for determining significance of indigenous biodiversity.
11. The RMA requires the plan to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. The WRPS also requires the plan to protect SNAs and to avoid their loss or degradation. At the time of writing this chapter, a draft National Policy Statement for Indigenous Biodiversity (NPS-Indigenous Biodiversity) was being considered. This document has since become operative and provides a framework for indigenous biodiversity management.

12. **In the Manawatū-Whanganui region** part of the district it is the Regional Council's function to provide for the protection of indigenous biodiversity and SNAs. Approximately 35% of the district located in the Waikato Region has been identified as an SNA. Table 1 below shows the composition of SNAs, indicating the percentage that are permanently protected. SNAs in Waitomo district are particularly precious with 81% being nationally or internationally significant. Figure 1 shows a map of the SNAs.

Table 1: Summary of SNAs in Waitomo District (Waikato)

Summary of relative significance levels of SNA of the Waitomo District (Waikato Region only) by number and area (hectares)				
Significance Level	Area (Ha)	Percent of total SNA area	Area protected* (Ha)	Percent of SNA area protected
International	26910.6	22%	18212.7	67.68%
National	73084.6	59%	40902.0	55.97%
Regional	13879.5	11%	4294.5	30.94%
local	9021.3	7%	572.7	6.35%

*Means the land parcel is fully or partially in Crown Estate, a Crown or Council reserve, QEII covenant, Nga Whenua Rahui or Native Forest Restoration Trust.

Note: The figures are approximate as some SNAs extend into the coastal marine area.

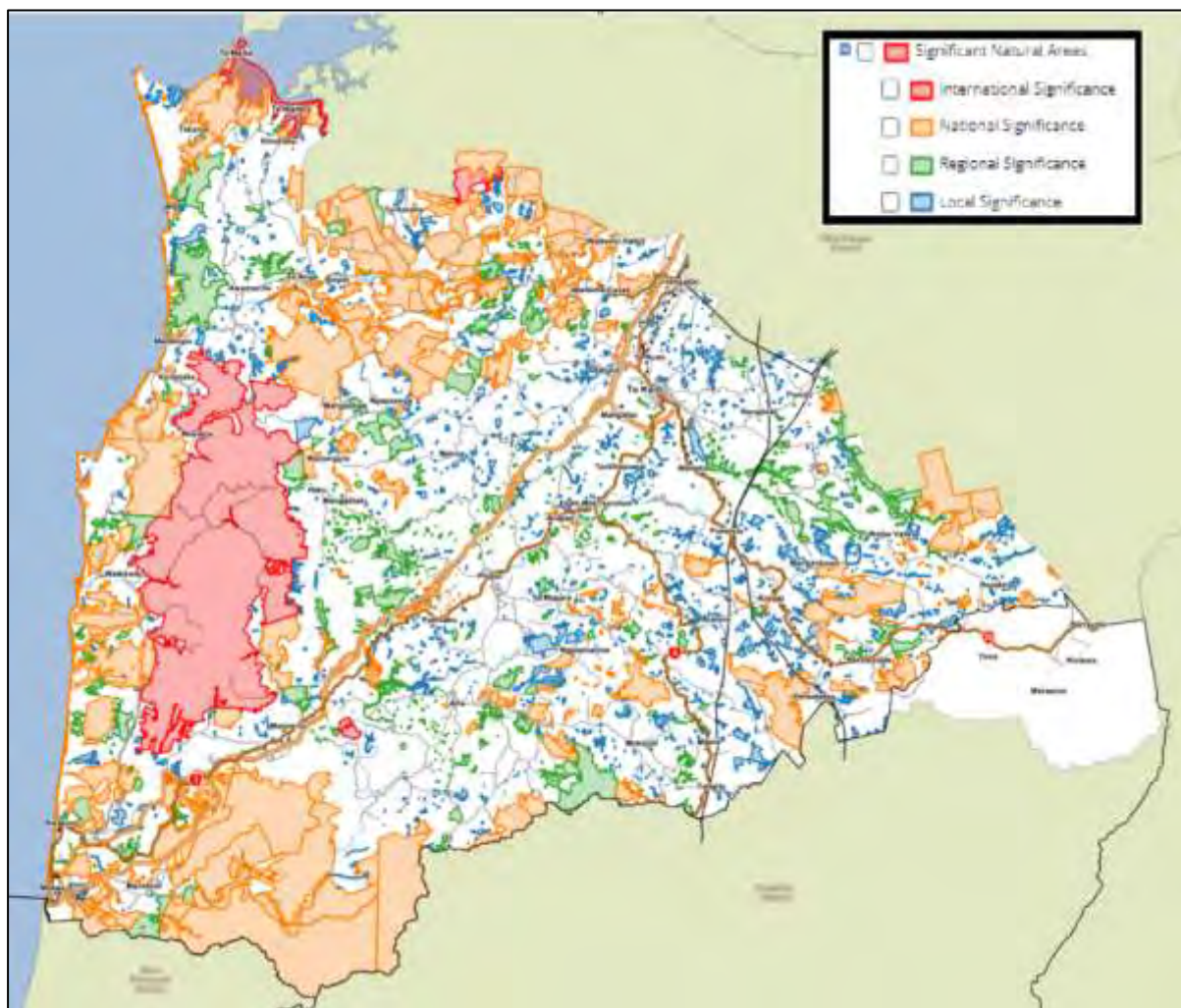


Figure 1: Significant Natural Areas in Waitomo District (Waikato)

13. The ecosystems and indigenous biodiversity chapter has the specific aim of addressing the following issues:
- Land use practices, subdivision and development can result in the loss and degradation of ecosystems, fragmentation of habitats, the reduction of species abundance and the loss of overall districtwide biodiversity.
 - Waitomo district is home to rare and unique ecosystems including dune lakes, coastal wetlands and karst ecosystems. Approximately 123,000 ha or 35% of the district located within the Waikato region is identified as a significant natural area (SNA). This comprises 708 sites, with the majority (59%) being nationally significant and 22% being internationally significant.
 - SNAs comprise of a range of vegetation and habitat types, terrestrial, coastal and karst, of which some are representative of threatened or vulnerable environments or are habitat to threatened animal and plant species. Land use change, subdivision and development can adversely and permanently affect the high biodiversity value of significant indigenous vegetation and significant habitats of indigenous fauna.

2.3 Statutory Requirements

Resource Management Act

14. This plan has been prepared in accordance with the Council's functions under the RMA, specifically Part 2, sections 31, 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32. The section 32 report which addresses this chapter sets out how the relevant national policy statements, national environmental standards, provisions of the Waikato Regional Policy Statement, the **Manawatū**-Whanganui One Plan, the Maniapoto Environmental Management Plan, the Waikato Tainui Environment Management Plan 2018 and Te Ture Whaimana o Te Awa o Waikato - The Vision and Strategy for the Waikato River have been assessed and considered.

3. Consideration of submissions received

3.1 Overview of submissions

15. The table of submissions is contained in Appendix 1 of this report. 599 submission points and further submission points were received on the ecosystems and indigenous biodiversity chapter.

3.2 Structure of this report

16. This report is structured into 16 topic areas, being:
 - Topic 1: Implementation of the NPS-Indigenous Biodiversity
 - Topic 2: District-wide indigenous biodiversity (Indigenous biodiversity outside identified significant natural areas)
 - Topic 3: Protection of highly mobile fauna
 - Topic 4: Objectives ECO-O1-O6
 - Topic 5: Introduction to the policies
 - Topic 6: Effects management hierarchy (ECO-P1 and P4)
 - Topic 7: Significant natural area policies (ECO-P2 - P3 and ECO-P5 – P8)
 - Topic 8: Policy ECO-P11 - Indigenous biodiversity in the coastal environment overlay
 - Topic 9: Policies ECO-P12-P13 - Indigenous biodiversity outside the coastal environment overlay
 - Topic 10: Permitted activities ECO-R1-R13
 - Topic 11: ECO-R14–R17
 - Topic 12: Regionally significant sites in the rural production zone
 - Topic 13: Plantation forestry
 - Topic 14: Definitions
 - Topic 15: Network utilities
 - Topic 16: Schedule 6 and planning maps

4. Analysis and Recommendations

Topic 1: Implementation of the NPS-Indigenous Biodiversity

17. Manulife Forest Management New Zealand Ltd (MFMNZL) have provided the scope for amendments to be made to this chapter to give effect to the provisions of the NPS-Indigenous Biodiversity (08.12). This submission point is supported by DoC and PF Olsen. The ability to make these changes is appreciated. The main change required is to update the overview section of the chapter. The following changes are recommended:

.....

The Act requires the plan to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. ~~At the time of drafting this plan, national guidance in the form of a draft The National Policy Statement on for Indigenous Biodiversity 2023 provides was being considered to provide~~ a framework for strengthening indigenous biodiversity management. The Waikato Regional Policy Statement (WRPS) also requires the plan to protect these areas and to avoid their loss or degradation in the first instance. The WRPS only allows impacts to be remedied, mitigated or offset (in this order) where the adverse effects are unavoidable. In order to meet this high threshold, most councils identify and map these areas as SNAs (Significant Natural Areas).

.....

Mana whenua play an important role as kaitiaki of indigenous biodiversity. The obligation of stewardship is important, with a view that indigenous biodiversity should be maintained and enhanced holistically for the wider health of both the environment and all New Zealanders. Accordingly, the ~~draft~~ National Policy Statement ~~on for~~ Indigenous Biodiversity prioritises the mauri and intrinsic value of indigenous biodiversity and recognises people's connections and relationships with indigenous biodiversity. It also recognises that the health and wellbeing of people and communities are dependent on the health and wellbeing of indigenous biodiversity and that in return people have a responsibility to care for and nurture it. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community, at both a physical and metaphysical level. identifies three major principles inherent in managing indigenous biodiversity. These principles hinge on the interrelationship between te hauora o te tangata (the health of the people) and:

- ~~□ Te hauora o te koiora – the health of indigenous biodiversity; and~~
- ~~□ Te hauora o te taonga – the health of species and ecosystems that are taonga; and~~
- ~~□ Te hauora o te taiao – the health of the wider environment.~~

~~To achieve this, t~~The health and ecological functioning of indigenous ecosystems and habitats is reliant upon management measures and the identification of opportunities for restoration, enhancement and protection

18. Section 32AA: The recommended amendments to the overview section provide alignment with the NPS – Indigenous Biodiversity 2023. The amendments do not affect the policy framework or rules. A section 32AA evaluation is not required.

Topic 2: District-wide indigenous biodiversity (Indigenous biodiversity outside identified significant natural areas)

National Policy Statement for Indigenous Biodiversity 2023.

Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.

Please note the application of this provisions is not affected by the Resource Management (Freshwater and Other Matters) Amendment Bill 2024.

3.8 Assessing areas that qualify as SNAs

(6) If a territorial authority becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant indigenous vegetation or significant habitat of indigenous fauna that qualifies as an SNA, the territorial authority must:

- (a) conduct an assessment of the area in accordance with subclause (2) as soon as practicable; and
- (b) if a new SNA is identified as a result, include it in the next appropriate plan or plan change notified by the territorial authority.

Please note the application of this provision is disapplied for a period of 3 years from the commencement of the Resource Management (Freshwater and Other Matters) Amendment Bill 2024.

19. There is a theme in the submissions that suggests the plan does not adequately provide for indigenous biodiversity outside of identified significant natural areas (SNAs). Firstly, it is important to acknowledge that this plan may be the first plan some parties have submitted on that is in the national planning standards format. This format is deliberately prescriptive but does result in some provisions sitting in unfamiliar locations or chapters. The result might be the perception that indigenous biodiversity outside of SNAs is not comprehensively provided for. The following table sets out the provisions across the plan which relate to removal of indigenous vegetation outside of SNAs. Once appeals are resolved, a similar table will be **placed on the Council's website to help** parties navigate indigenous vegetation clearance provisions outside of SNAs. The rules are:

Table 2: Removal of indigenous vegetation outside of a significant natural area

The rules apply to all zones								
Rule	Outstanding natural features	Areas of outstanding natural character	Outstanding natural landscapes	Areas of high/very high natural character	Rare or overlay	Coastal environment	General rural zone (outside coastal environment) GRUZ-R15	Within 5m from the edge of a water body NATC-R1
NFL-R15	Removal of indigenous vegetation outside of a significant natural area							
CE-R15	RDIS	NC	PER: Where less than or equal to 5000m ² per holding per calendar year	RDIS: Where less than or equal to 5000m ² per holding per calendar year	PER: Where less than or equal to 5000m ² per holding per calendar year	See zone rules except: PER: In GRUZ where less than or equal to 1 hectare per holding per calendar year	PER: For pasture reinstatement within specified performance standards	PER: Within specified performance standards
			RDIS: Where greater than 5000m ² per holding per calendar year.	DIS: Where greater than 5000m ² per holding per calendar year.	RDIS: Where greater than 5000m ² per holding per calendar year.	See zone rules except: RDIS: In GRUZ where greater than 1 hectare per holding per calendar year	RDIS: Where performance standards cannot be met	RDIS: Where performance standards cannot be met

20. In submission point 10.90 (and in **the Hapori Whānui chapter**), WRC request a new rule regulating the removal of vegetation outside of SNAs. The submitter notes that HW-R8 allows for vegetation clearance outside of SNAs as a permitted activity with no environmental limits. They consider HW-R8 would be better placed under the ECO chapter. They also consider this rule is too permissive and recommend that clearance of indigenous and non-indigenous vegetation outside of SNAs should only be permitted for a limited area size per site and with a time limit to achieve better alignment with the WRPS ECO-O1 and policies ECO-P1 and ECO-P2. In submission point 10.9 WRC also request new rule similar to the list of activities in ECO-R1-R10 which regulates the removal of vegetation outside of SNAs in the ECO chapter.
21. **There's a lot to unpack here but it's helpful to deal with this matter** early in this report. HW-R8 allows for indigenous or non-indigenous vegetation clearance outside SNAs as a permitted activity. However, there are limits to indigenous vegetation clearance all through the plan as identified in the table above. For example, in the GRUZ, indigenous vegetation clearance outside SNAs is not unfettered. HW-R8 specifically references GRUZ-R15 which allows for pasture reinstatement only in specific circumstances. GRUZ-R15 gives effect to the NPS-IB 3.17 which directs local authorities to allow the maintenance of improved pasture to continue if, among other matters, the improved pasture has not itself become an SNA.
22. GRUZ-R15 is designed to ensure that landowners have the ability to clear vegetation to reinstate pasture or to erect a building without requiring a

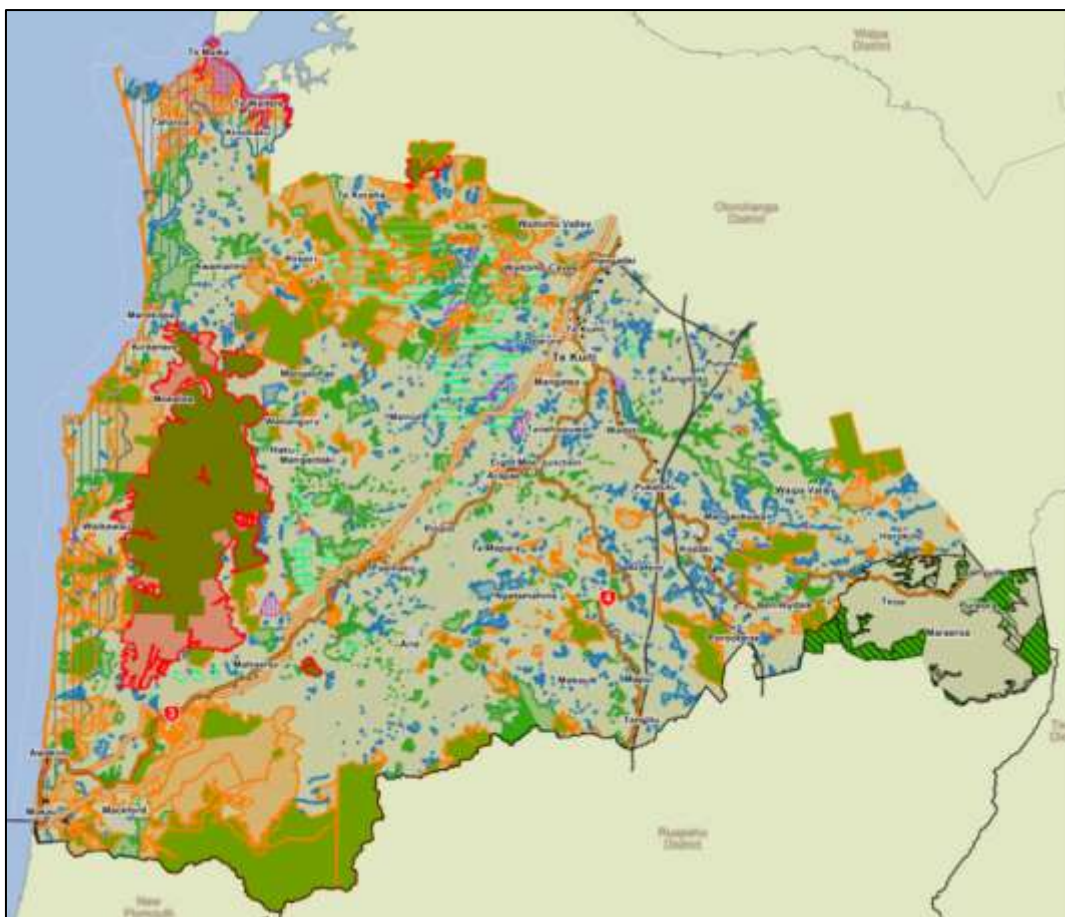


Figure 3: Overlays that control indigenous vegetation clearance

24. The map indicates that the district is well covered; and then these controls are combined with the GRUZ-R15 backstop for areas outside overlays and the NES-Freshwater managing natural inland wetlands, and the regional plan managing vegetation clearance in high-risk erosion areas. This is a great deal of regulation. These provisions in unison are considered to meet the requirement of NPS-IB Policy 8 which specifies that the importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.
25. It is at this point that it is important to acknowledge all of those landowners who have kept so much of the district in native vegetation cover - because without them, the above map might look very different.
26. **Back to WRC's submission point.** In the Hapori Whānui chapter it was not agreed that HW-R8 would be better placed under the ECO chapter nor that the rule is too permissive. In respect of submission point 10.9, it is also considered that the plan's **provisions appropriately** give effect to WRPS ECO-O1 and policy ECO-P1 (noting ECO-P2 relates to SNAs not to district wide indigenous biodiversity). As such it is recommended that this submission point is rejected.
27. **Similar to WRC's submission point at 10.9,** Forest and Bird (47.121 and 47.176) request a new Table 2 is added to the Ecosystems and Indigenous Biodiversity chapter, which applies to clearance of indigenous vegetation outside of SNAs. Like WRC, the submission provides a rule for permitted activities similar to those provisions for SNAs at ECO-R1-R10. However,

an additional rule is proposed for areas of indigenous biodiversity that are not identified as SNAs but meet the WRPS criteria, are within an overlay or relate to the national grid. Default discretionary and non-complying rules are also provided and the submission proposed that GRUZ-R15 is amended to align with the new rules.

28. As demonstrated by Table 2 and the maps above, clearance of indigenous vegetation outside of SNAs is well provided for both within and outside of overlays, including in the coastal environment and the GRUZ. Matters relating to indigenous vegetation clearance in respect of network utilities are provided for in that chapter.
29. The request that potential SNAs (found to meet the WRPS criteria) should **be subject to the plan's provisions** cannot be agreed to. Provision 3.8(6) of the NPS-Indigenous Biodiversity provides that if a territorial authority becomes aware (as a result of a resource consent application or similar) that an area may be an SNA, the territorial authority must conduct an assessment of the area and if a new SNA is identified as a result, include it in the next appropriate plan change. However, the application of this provision is disapplied for a period of 3 years from the commencement of the Resource Management (Freshwater and Other Matters) Amendment Bill 2024 (which is expected to occur before decisions on this plan are released). Accordingly, provisions which assess potential SNAs cannot be applied in the plan until this period is completed. As such, it is recommended that the Forest and Bird submission points (47.121 and 47.176) are rejected.
30. DoC (53.31, 53.33) similarly request a new policy is added which addresses the maintenance and enhancement of indigenous vegetation and habitats of indigenous fauna that do not meet the significance criteria (ie are not identified as SNAs). They also request a new rule for those areas that are identified as meeting the criteria set out in WRPS APP5. As noted above, provisions which assess potential SNAs cannot be applied at present.
31. DoC also ask that the new policy addresses the ongoing assessment of the current state of indigenous biodiversity within the district. It is noted that this type of monitoring is the role of the Regional Council (see NPS-Indigenous Biodiversity 3.25). DoC also request that the policy provides support through non-regulatory mechanisms. Waitomo District Council is not able to offer monetary support but does provide rates relief on covenanted areas and offers environmental benefit lots for fencing of water bodies in the Upper Waipa catchment and for protection of SNAs in the coastal environment or karst overlay.
32. Finally, DoC asks that the policy limits clearance where there are threatened, at risk species, or species at the reach of their national or regional distribution limits in the district or are naturally uncommon ecosystems. The plan has identified these areas as SNAs based information provided by WRC, desktop analysis by qualified ecologists and ground-truthing of sites where this was requested by landowners. While it is acknowledged that the data set is constantly changing, existing policies do provide for indigenous biodiversity in the coastal environment overlay

(both within and outside of SNAs – ECO-P11) and district wide biodiversity generally (ECO-P12-P13). ECO-P11.1-3 and ECO-P13.3-7 in particular, seek to address underrepresented or naturally uncommon indigenous ecosystems and the maintenance of habitat of nationally threatened or at-risk indigenous species. As these matters have been provided for (or cannot be added to the plan), a new policy is not recommended, it is suggested that this submission point is rejected.

33. Forest and Bird request the overview is amended to include rules and policies for the maintenance of indigenous biodiversity which includes SNAs and to clarify that maintenance of indigenous biodiversity is not limited to areas not classified as SNA. Forest and Bird also ask that the overview is amended to explain the extent to which this chapter gives effect to the NZCPS, including Policy 11 and that adverse effects of other vegetation clearance in the coastal environment as it may relate to protection of natural character, landscapes and features is addressed by provisions in the coastal environment and natural features and landscapes chapters. These matters are already addressed in para 1 of the overview and in para 7. It is recommended that these submission points are accepted in part as the matter is already provided for in the chapter.
34. Forest and Bird request the overview is amended to explain that areas meeting the significance criteria are identified in Schedule 6 and on the planning maps, and that further areas may be identified on a case-by-case basis through resource consent processes. It is recommended that this submission point is accepted in part to allow the following amendment:
- [To locate an SNA](#). Refer [to the planning maps and](#) to [SCHED6](#) for the schedule of significant natural areas.
35. And then consequently update Schedule 6 to corresponded to the renumbered WRPS:

Note: The criteria referred to in the column 'Criteria' relates to the Waikato Regional Policy Statement, [APP5, Table 28, Table 11-1](#), Criteria for determining significance of indigenous biodiversity.

36. [Section 32AA](#): The recommended amendments are minor and provide direction to plan users only. A section 32AA evaluation is not required.
37. In respect of further areas being identified on a case-by-case basis through resource consent processes. While this may occur during the course of a resource consent or designation process, it is considered to be immaterial to the implementation of the plan as a plan change is required to add an SNA to the maps and to Schedule 6 (**meaning the plan's provisions** would have no standing over any new SNA identified by way of resource consent). Additionally, the Resource Management (Freshwater and Other Matters) Amendment Bill 2024 prevents the addition of new SNAs to a plan from the commencement of the Act². As previously noted, the Bill is likely to progress through the house quickly and commence during 2024.

² Clause 21 [section 78(2)] The following provisions of the NPSIB 2023 do not apply during the 3-year period: (b) clause 3.8(1), (6), and (8) (which requires a territorial authority to conduct assessments to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna that qualify as SNAs).

38. Similarly, Forest and Bird request a new policy which seeks to ensure that new SNAs are identified using the WRPS criteria and added to the plan. The submitter also suggests Table 1 is amended so the rules include SNAs identified in Schedule 6 and any area that meets the significance criteria set out in APP5 5 of the WRPS. Again, this approach is unlikely to be allowed given the amendments proposed to the RMA which are likely to come into effect before the decisions on this plan are issued.
39. DoC requests a new definition for SNAs is added to the plan which means *'identified areas of significant indigenous vegetation and significant habitats of indigenous fauna, as set out in SCHED 6 and shown on the Planning Maps or areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in WRPS APP5'*. In relation to the first part of the definition it is considered that the changes proposed above to the overview and Schedule 6 adequately explain what an SNA is and para 3 of the overview refers to the WRPS criteria. The wording proposed in the second part of the definition is unlikely to be allowed given the amendments proposed to the RMA. Accordingly, it is recommended that these submission points are rejected.

Topic 3: Protection of highly mobile fauna

National Policy Statement for Indigenous Biodiversity 2023.

specified highly mobile fauna means the Threatened or At Risk species of highly mobile fauna that are identified in Appendix 2

Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.

3.20 Specified highly mobile fauna

- (1) Where information about areas used by specified highly mobile fauna is available, every regional council must record areas outside SNAs that are highly mobile fauna areas, by working together with tangata whenua (in the manner required by clause 3.3), any potentially affected landowners, territorial authorities in its region, and the Department of Conservation.
- (2) If it will help manage adverse effects on specified highly mobile fauna, regional councils must include in their regional policy statements (where practicable) a map and description of each highly mobile fauna area in the region.
- (3) Local authorities must include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.
- (4) Local authorities must provide information to their communities about:
 - (a) highly mobile fauna and their habitats; and
 - (b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts

Please note the application of these provisions is not affected by the Resource Management (Freshwater and Other Matters) Amendment Bill 2024.

40. The NPS-Indigenous Biodiversity 2023 identifies 'specified highly mobile fauna' and includes native bats in this definition. Policy 15 requires that areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range. 3.20(1) requires regional councils (where information is available) to identify and record these areas. It does not require district councils to identify these areas.
41. 3.20(3) requires local authorities to include objectives, policies, or methods in their plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas. The regional council has not identified any highly mobile fauna areas in Waitomo District. As such, no objectives, policies, or methods can be applied.
42. 3.20(4) requires local authorities to provide information to their communities about highly mobile fauna and their habitats and best practice techniques for managing adverse effects on any specified highly mobile fauna in their districts. It is recommended that Waitomo District Council works with the Waikato Regional Council (WRC) and the Department of Conservation (DoC) to create factsheet(s) as an interim measure until highly mobile fauna areas are identified in Waitomo District. This approach is consistent with the Waikato Regional Policy Statement (WRPS) ECO-M5 - Information gathering, ECO-M6 - Biodiversity Inventory and ECO-M7 - Threatened species information.
43. Forest and Bird request new provisions are added to the plan to address the protection of bat habitats including corridors, and corridors of other highly mobile indigenous species. They suggest that Council works with WRC, DoC and other bat specialists to identify Bat Protection Areas to be included as an overlay in the maps, along with objectives, policies and rules. DoC also request a new policy protecting native bats by identifying a Bat Protection Area overlay, including rules restricting clearance of trees in these areas, amending the Light chapter to identify appropriate light levels in highly mobile fauna areas and the introduction of light sensitive areas.
44. As discussed above, it is not the role of district councils to identify highly mobile fauna areas, it is the responsibility of regional councils which is considered appropriate given this is where the expertise lies. Notwithstanding this, consideration must be given as to whether the submissions requesting the identification of bat protection overlays and **light sensitive areas are "on" the plan**. Palmerston North City Council v Motor Machinists Limited³ and Clearwater Resource Limited v Christchurch City Council⁴ (for the purposes of this report, to be collectively referred to

³ [2013 NZHC1290]

⁴ [HC Christchurch, AP34/02, 14 March 2003]

as the 'clearwater test') address the scope of submissions that may be considered to be "on" a plan.

45. There are two limbs in the clearwater test. The first limb requires that submissions are within the parameters of the matters addressed in the plan or plan change. This can be tested by asking whether the submission raises an issue that should have been considered and addressed in a Section 32 Evaluation or whether the submission seeks a new management regime for a resource. If these tests are not met, the submission is unlikely to be "on" the plan (unless the change requested is incidental or consequential). The second limb tests whether there is a risk that persons who might be potentially affected by the change proposed have been denied an effective opportunity to participate in the plan process.
46. While not offering a legal opinion on whether the two limbs have been met or otherwise, it is observed that introducing bat protection overlays and light sensitive areas without consulting parties affected by that change, might not achieve the second limb of the test. Additionally, the submissions seek a new management regime for a resource. While it is perfectly legitimate for Forest and Bird and DoC to submit on the inclusion of these areas, it seems contrary to the clearwater test and the principles of natural justice to overlay areas of land (and place restrictions on its use and development) without recourse to the views of affected landowners and occupiers. It is difficult to justify accepting submissions which propose a significant change to notified provisions without considering the views of potentially affected parties.
47. Accordingly, it is recommended that those submissions requesting provisions which identify and provide for bat protection overlays and light sensitive areas (being Forest and Bird 47.124 and DoC 53.34, 53.44, 53.66, 53.67, 53.72, 53.07, 53.06) are rejected. This does not mean that Council is unwilling to consider amending the plan in the future to make any changes necessary accommodate highly mobile fauna areas identified by WRC or **Manawatū**-Whanganui Regional Council.
48. Forest and Bird request the overview of the light chapter is amended to include an additional sentence to acknowledge the impact of artificial light on indigenous fauna. They also request a rule and policy framework which sets appropriate light levels in areas of bat habitat, and in areas known to be (or potentially suitable) as pathways for seabirds coming ashore to nest, or migration pathways. The submitter also requests an amendment to LIGHT-O1 and LIGHT-P1 and other impacts on indigenous fauna such as long tailed bats, seabirds and insects. For the reasons discussed above, it is not appropriate to make amendments to the chapter without understanding the extent of these areas.
49. Section 32AA: No amendments are recommended to the rule or policy framework. A section 32AA evaluation is not required.

Topic 4: Objectives ECO-O1-O6

50. ECO-O1 reads; Indigenous biodiversity in Significant Natural Areas identified in SCHED6 is protected or enhanced, where appropriate. Forest and Bird request the objective is reworded to: ***'Indigenous biodiversity including significant indigenous vegetation and the significant habitats of indigenous fauna is protected'***. As the proposed change includes district-wide indigenous biodiversity, this amendment is not consistent with section 6(c) of the RMA which requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Additionally, Policy 7 of the NPS-Indigenous Biodiversity directs that SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development. A slightly different approach is provided for indigenous biodiversity outside of SNAs by Policy 8 which reads: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for. Accordingly, this amendment is not recommended.
51. The Department of Conservation request that ECO-O1 and ECO-O4 are replaced with similar (but expanded) wording but headed with **'there is a net increase in indigenous biodiversity throughout the District'**. While the sentiment is agreed with, it is difficult to accept this change given the higher order planning documents the district plan must give effect to. The NPS-Indigenous Biodiversity directs that:

3.22 Increasing indigenous vegetation cover

.....

(3) Regional councils must:

- (a) set a target of at least 10% indigenous vegetation cover for any urban or nonurban environment that has less than 10% cover of indigenous vegetation; and
- (b) consider, in consultation with tangata whenua and territorial authorities, setting higher targets for urban and non-urban environments that already have at least 10% coverage of indigenous vegetation; and
- (c) include any indigenous vegetation cover targets in their regional policy statements.

(4) Local authorities must promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans:

- (a) having regard to any targets set under subclause (3) by regional councils; and (b) giving priority to all the following:
 - (i) areas referred to in clause 3.21(2);
 - (ii) ensuring indigenous species richness appropriate to the ecosystem;
 - (iii) restoration at a landscape scale across the region;
 - (iv) using species, and seed from species, that are local to the area

Please note the application of these provisions is not affected by the Resource Management (Freshwater and Other Matters) Amendment Bill 2024.

52. This approach indicates that the regional council will set targets for the district and at that time, the **district plan's** policy framework will be amended to have regard to those targets. In the interim, the only target that **the plan can justifiably impose is 'working towards achieving no net loss of indigenous biodiversity at a regional scale' as provided for by WRPS**

ECO-P1. Accordingly, no change to ECO-O1 is recommended. Please note **WRC support DoC's** proposed amendment subject to a series of changes which cannot be accepted as they are outside the scope of a further submission.

53. ECO-O3 reads; Provide for identified permitted activities which have been assessed as having no more than minor adverse effects on the values of significant natural areas. WRC request the objective is amended to '*provide for identified permitted activities which have been assessed as having no adverse effects on the values of indigenous biodiversity.*' The **objective's approach** as notified complies with WRPS ECO-P2:

ECO-P2– Significant indigenous vegetation and the significant habitats of indigenous fauna shall be protected by ensuring the characteristics that contribute to its significance are not adversely affected to the extent that the significance of the vegetation or habitat is reduced.

54. There is nowhere in the WRPS that district plans are directed to ensure that a permitted activity has no adverse effects on the values of indigenous biodiversity. Policy 7 of the NPS-Indigenous Biodiversity requires that SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development. Additionally, section 3.10 of the NPS-Indigenous Biodiversity applies to any new subdivision, use, or development that affects an SNA. It identifies the adverse effects on an SNA that must be avoided as being:

- loss of ecosystem representation and extent:
- disruption to sequences, mosaics, or ecosystem function:
- fragmentation of SNAs or the loss of buffers or connections within an SNA:
- a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems:
- a reduction in the population size or occupancy of Threatened or At Risk (declining) species that use an SNA for any part of their life cycle.

55. This plan identifies permitted activities (ECO-R1-R13) with associated performance standards that will have a no more than minor adverse effect on the values of significant natural areas. ECO-O3 supports this approach. This approach gives effect to WRPS ECO-P2, Policy 7 and section 3.10 of the NPS-Indigenous Biodiversity. No change is recommended.

56. Forest and Bird request ECO-O3 is deleted. Given the objective gives effect to WRPS ECO-P2, Policy 7 and section 3.10 of the NPS-Indigenous Biodiversity, no change is recommended.

57. ECO-O4 reads; Maintain or enhance and where practicable restore district-wide indigenous biodiversity outside of significant natural areas. This objective responds to WRPS ECO-P1 – Maintain or enhance indigenous biodiversity, which seeks to; Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems. ECO-O4 also gives effect to Policies 8 and 13 of the NPS-Indigenous Biodiversity.

58. WRC request the ECO-O1 is reworded to: *'Maintain, enhance and where possible restore district-wide indigenous biodiversity'*. Given this is similar to the wording of ECO-O4 it is assumed the submission point addresses this objective. Forest and Bird request exactly the same amendment but have the objective numbered correctly. Manulife Forest Management New Zealand Ltd (MFMNZL) request the objective is deleted.
59. The changes proposed by WRC and Forest and Bird are minor in nature and do not change the intent of the objective with the exception of applying the whole provision to all indigenous biodiversity and not just to indigenous biodiversity outside of SNAs. Firstly, there is little point changing ECO-O4 if the wording does not substantially clarify or improve interpretation of the provision. In respect of applying the provision to all indigenous biodiversity and not just to indigenous biodiversity outside of SNA, this change would leave a gap in the policy framework of the plan which differentiates between indigenous biodiversity within SNAs and indigenous biodiversity outside of SNAs. The plan takes this approach because RMA section 6(c), the NPS-Indigenous Biodiversity and the WRPS also make the differentiation. No change is recommended.
60. In respect of the request to delete the objective, given it gives effect to WRPS ECO-P1 and Policies 8 and 13 of the NPS-Indigenous Biodiversity, no change is recommended.
61. Forest and Bird request wording change to both ECO-O5 and O6. None of the wording changes proposed have a substantial effect on the interpretation or intent of the objectives. Consequently, it is not considered that the amendments are necessary. No changes are recommended.

Topic 5: Introduction to the policies

62. The policies respond to the overarching direction of the six objectives in the ecosystems and indigenous biodiversity chapter and are divided into three categories being:
 - Significant natural areas
 - Indigenous biodiversity in the coastal environment overlay
 - Indigenous biodiversity outside the coastal environment overlay (district-wide indigenous biodiversity)
63. District plans sit at the bottom of the planning hierarchy and must give effect to higher order documents. In this case the NPS-Indigenous Biodiversity, the New Zealand Coastal Policy Statement, Te Ture Whaimana o Te Awa o Waikato – The Vision and Strategy for the Waikato River and the WRPS. In the section 32 report, significant weight was also placed on the Maniapoto Iwi Environmental Management Plan and the Waikato Tainui Environmental Management Plan. To ease interpretation of this section the following table demonstrates how each policy responds to the higher order documents it has a statutory obligation to give effect to.

RMA Section 6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The plan is required to recognise and provide for section 6(c) as a matter of national importance.

RMA Section 7(d) This plan must have particular regard to the intrinsic value of ecosystems.
RMA Section 7(f) This plan must have particular regard to the maintenance and enhancement of the quality of the environment

Policy	Objective	WRPS	National Direction
ECO-P1 Effects management hierarchy for SNAs	ECO-O1	ECO-P2 ECO-M13 District Plans must: Require that activities avoid the loss or degradation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in preference to remediation or mitigation.	3.10 Any adverse effects on an SNA of a new subdivision, use, or development must be managed by applying the effects management hierarchy.
ECO-P2 Recognise, protect and enhance SNAs	ECO-O1 ECO-O2	ECO-P2 ECO-M13 District Plans must: Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.	Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.
ECO-P3 Permitted and lawfully established activities in SNAs	ECO-O3	ECO-P1 ECO-M4 District plans should include permitted activities where they will have minor adverse effects in relation to the maintenance or protection of indigenous biodiversity.	Policy 9: Certain established activities are provided for within and outside SNAs.
ECO-P4 Unavoidable loss in SNAs – effects management hierarchy and offset	ECO-O1	ECO-P2 ECO-M13 District Plans must: Require that activities avoid the loss or degradation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in preference to remediation or mitigation.	NPS Appendix 3 and 4. 3.10 Any adverse effects on an SNA of a new subdivision, use, or development must be managed by applying the effects management hierarchy.
ECO-P5 Matters that must be regarded when considering unavoidable loss in SNAs	ECO-O1 ECO-O2	ECO-P2 ECO-M13 District Plans must: Require that activities avoid the loss or degradation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in preference to remediation or mitigation.	Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.
ECO-P6 Protecting ecological functioning and indigenous biodiversity in SNAs	ECO-O1 ECO-O2	ECO-P2, ECO-P1, ECO-M2 ECO-P1 ECO-M2 District Plans must: recognise that adverse effects on indigenous biodiversity within terrestrial, freshwater and coastal environments are cumulative and may include a variety of	Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.

Policy	Objective	WRPS	National Direction
		undesirable and irreparable outcomes.	
ECO-P7 Flexibility for Māori land in SNAs	ECO-O1 ECO-O2	-	Policy 2: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through managing indigenous biodiversity on their land.
ECO-P8 Provision for continuous cover /sustainable forestry in certain circumstances in SNAs	ECO-O1	-	3.10(6)(e) Managing adverse effects on SNAs
ECO-P9 Avoid plantation forestry in SNAs	ECO-O1	ECO-P2 ECO-M13 District Plans must: Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and require that activities avoid the loss or degradation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in preference to remediation or mitigation	Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities. 3.14 the adverse effects of plantation forestry activities in any existing plantation forest on any SNA must be managed in a manner that maintains indigenous biodiversity in the SNA as far as practicable while providing for plantation forestry activities to continue
ECO-P10 Recognise the benefits of outdoor education and adventure tourism	ECO-O1	-	-
Coastal Environment			
ECO-P11 Protect indigenous biodiversity including SNAs in the coastal environment	ECO-O5	CE-P1, CE-P2 CE-M5 District plans must: Control the adverse effects, including cumulative effects, of activities within the coastal environment to protect and enhance indigenous biodiversity	NZCPS Policy 11: Indigenous biological diversity
District Wide			

Policy	Objective	WRPS	National Direction
ECO-P12 Enable activities that maintain or enhance indigenous biodiversity	ECO-O4 ECO-O5	ECO-P1, ECO-M4 District plans should include permitted activities where they will have minor adverse effects in relation to the maintenance or protection of indigenous biodiversity.	Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for. Policy 9: Certain established activities are provided for within and outside SNAs.
ECO-P13 Matters that must be regarded when considering removal of indigenous vegetation outside SNAs	ECO-O4	ECO-P1, ECO-M1 District Plans must: Maintain or enhance indigenous biodiversity including by creating buffers, linkages and corridors to protect and support indigenous biodiversity values, including esplanade reserves and esplanade strips to maintain and enhance indigenous biodiversity values. ECO-P1 ECO-M2 District Plans must: recognise that adverse effects on indigenous biodiversity within terrestrial, freshwater and coastal environments are cumulative and may include a variety of undesirable and irreparable outcomes. ECO-M13 (which applies to SNAs) to provide for the consideration of alternative sites etc	1.7 Maintain Indigenous Biodiversity.
-	ECO-O6 Ensure that the Waikato River Vision and Strategy is given effect to	The Vision and Strategy is deemed to be part of the WRPS	Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 Nga Wai o Maniapoto (Waipa River) Act 2012

64. As mentioned earlier in this report, Manulife Forest Management New Zealand Ltd (MFMNZL) have provided the scope for amendments to be made to this chapter to give effect to the provisions of the NPS-Indigenous Biodiversity (submission point 08.12). This submission point is supported by DoC and PF Olsen. The ability to make these changes is appreciated. The NPS-Indigenous Biodiversity makes a series of significant changes to the way indigenous biodiversity is managed and will provide for consistency across the country, improved monitoring and target setting.

There is benefit to adopting the amendments set out in the NPS in full. This would enable considerable resource and time saving and allow for the immediate implementation of the new management regime.

65. However, taking this approach seems disingenuous. It would not allow mana whenua to actively participate in decision-making about the indigenous biodiversity provisions. It excludes communities and landowners as stewards of indigenous biodiversity from participating in the development of a new policy and rule framework. It would pre-empt **changes to the WRPS and the Manawatū-Whanganui One Plan**, which this plan is required to give effect to. It would make a series of decisions which may significantly impact the operation of infrastructure, forestry managers, farmers and regionally significant industry without the benefit of their input. Indeed, the only input available would be to those parties who have made submissions on the relevant provision. It is also possible that making these wholesale changes runs counter to 3.2 and 3.3 of the NPS-Indigenous Biodiversity itself.
66. Instead, a more measured approach is proposed. Wherever possible the provisions in this chapter seek to give effect to the NPS within the scope of a submission on that provision only. Policies in particular are considered against the relevant provisions of the NPS-Indigenous Biodiversity. Where change can be justifiably introduced to give effect to the NPS, the opportunity is taken with caution. ECO-P1 and ECO-P4 are the test of this approach.

Topic 6: Effects Management Hierarchy (ECO-P1 and P4)

67. ECO-P1 seeks to provide an effects management hierarchy based on the WRPS ECO-M13, to protect SNAs. DoC and Forest and Bird both provide scope to amend the effects management hierarchy. One option is to replace the notified effects management hierarchy wording in ECO-P1 with the NPS-Indigenous Biodiversity effects management hierarchy. This is quite a significant change – not in terms of the effects management hierarchy itself, but in terms of the exemptions provided for in the NPS. The exemptions would impact regionally significant industry and change **the management regime on specified Māori land without consultation with mana whenua**. Instead, in order to better align with the NPS and with a view to the future plan change which will be required, it is recommended that biodiversity offsetting and compensation are added to the hierarchy in the policy:
68. ECO-P1. Recognise and protect the values, characteristics or extent of significant natural areas identified in [SCHED6](#) by [applying the effects management hierarchy](#):
1. Avoiding loss or degradation in preference to remediation or mitigation; and
 2. Remedying or mitigating any unavoidable adverse effects; and

3. Where any adverse effects cannot be avoided, remedied or mitigated in accordance with ECO-P1.1 and P1.2, significant residual adverse effects are offset to achieve no net loss; and
 4. Where remediation, mitigation or offsetting are required, as a first priority it relates to the indigenous biodiversity that has been lost or degraded (whether by on-site or off-site methods); and
 5. Where biodiversity offsetting or compensation is required it is in accordance with APP4.
69. Section 32AA: The first amendment clarifies that the policy relates to an effects management hierarchy. The policy as notified does represent the effects management hierarchy in WRPS ECO-M13. The amendment clarifies this. The second amendment adds biodiversity offsetting and compensation to the policy. Biodiversity offsetting is already provided for in the policy framework at ECO-P4. This amendment simply adds it to the hierarchy in one policy rather than across two policies. The addition of these two matters provides for clear alignment with national direction and gives effect to the NPS- Indigenous Biodiversity. A section 32AA evaluation is not required.
70. Forest and Bird request an array of amendments to the ECO-P1. The structure proposed seems to conflate a number of matters and only obliquely references the effects management hierarchy (which is the focus of the policy). It provides for identifying and protecting other areas meeting the significance criteria in APP5 of the WRPS which cannot be provided for. It does not fit into the notified structure of the policy framework, and it is not recommended that the changes are accepted.
71. ECO-P4 works in conjunction with ECO-P1. Where the effects management hierarchy provided for in ECO-P1 could not be achieved and the indigenous vegetation clearance was unavoidable and large scale, biodiversity offsetting is provided for. The wording of the policy ECO-P4 was based on the draft NPS-Indigenous Biodiversity which has since had a proposed and operative version. Given ECO-P1 now provides for biodiversity offsetting as ECO-P1.5, ECO-P4 appears to be redundant. There is scope to delete this policy. Forest and Bird request it is deleted, and DoC request it is amended. There are submitters who request it is retained, but it is no longer needed given its inclusion in ECO-P1. The recommended change is as follows:

~~ECO-P4. In limited circumstances, provide for the unavoidable removal of indigenous vegetation for larger scale activities only where the ensuing operations remedy or mitigate adverse effects in the first instance or if this is not practicable, offset residual adverse effects on the indigenous biodiversity values and ecological characteristics of the significant natural area by:~~

- ~~1. Providing a biodiversity offset that is consistent with the framework detailed in Appendix 4 Biodiversity Offsetting Framework; and~~
- ~~2. Ensuring the biodiversity offset is as close as practicable to the affected significant natural area and achieves no net loss of indigenous biodiversity at a regional scale.~~

72. **Both DoC and Forest and Bird request a definition of 'biodiversity offset'.** It is recommended that the definition in the NPS-Indigenous Biodiversity is adopted as it is the intention of this plan to employ statutory definitions as closely as possible. The recommended definition reads:

biodiversity offset means a measurable conservation outcome that meets the requirements in Appendix 4 Biodiversity Offsetting Framework and results from actions that are intended to:

- (a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and
- (b) achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

73. The changes to ECO-P1.5 also result in the need for a definition of '**biodiversity compensation**'. Again, **DoC provides** the scope to introduce this definition, and it is recommended that the definition in the NPS-Indigenous Biodiversity is employed. The recommended definition reads: biodiversity compensation means a conservation outcome that meets the requirements in Appendix 4 Biodiversity Offsetting Framework and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.

74. **DoC also requests that a new definition of 'effects management hierarchy'** is introduced but this is not considered wise as the policy approach (ECO-P1) **still relies largely on the WRPS's provisions, rather than the approach** in the NPS-Indigenous Biodiversity. Adding the NPS definition would both confuse and duplicate the provisions. Again, this hybrid approach may seem complicated, but it seeks to avoid the effects of the exemptions in the NPS-Indigenous Biodiversity effects management hierarchy which could have a significant impact on some parties. Instead, it relies on the WRPS.

75. There is also the opportunity to replace the current wording of Appendix 4 Biodiversity Offsetting Framework with the wording in the NPS – Indigenous Biodiversity (DoC 53.73). This would require the deletion of the current appendix in its entirety and its replacement with Appendix 3 and 4 of the NPS which provides principles for biodiversity offsetting and biodiversity compensation respectively. This amendment would ensure that the most up to date approach is in use in the plan without complicating the policy framework. The recommended changes would involve the following approach:

~~Delete: Appendix 4 Biodiversity Offsetting Framework~~

Replace Appendix Four with the contents of NPS-Indigenous Biodiversity 2023, Appendix 3 Principles for Biodiversity Offsetting and Appendix 4 Principles for Biodiversity Compensation.

76. Section 32AA: See Appendix 3

Topic 7: Significant natural area policies (ECO-P2 - P3 and ECO-P5 – P8)

77. ECO-P2 as notified reads:

ECO-P2. Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas by:

1. Only allowing the removal of indigenous vegetation in sustainable quantities within locally significant natural areas; and
2. Only allowing the removal of indigenous vegetation in limited circumstances within internationally, nationally or regionally significant natural areas; and
3. Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua; and
4. Protecting the health and functioning of significant natural areas that are wetland or include part of a wetland, by avoiding inappropriate land use practices, subdivision and development.
5. Protect and enhance connectivity along and between significant natural areas and other areas of indigenous vegetation and habitat of indigenous fauna.

78. WRC request ECO-P2.1 and P2.2 are amalgamated. P2.1 provides the policy framework for those rules which apply only to locally significant SNAs. Amalgamating it with P2.2 would remove the policy context for those rules. **However, the wording provided does refer to 'sustainable quantities' and that is considered to be an appropriate addition to the policy which relates to internationally, nationally or regionally significant natural areas.** The amendment is shown below. WRC also request that **'sustainable quantities' and 'limited circumstances' are defined. These terms will depend on the context of the application proposed and the classification of the SNA. 'Sustainable quantities' and 'limited circumstances' in a regionally significant hill country SNA is likely quite different to an internationally significant natural area which contains the habitats of threatened and at-risk species. It is recommended the submission point is accepted in part.**

79. WRC request that ECO-P2.4 applies to all SNAs rather than only wetlands. This policy point applies specifically to wetlands which tend to possess unique values and characteristics. The header sentence is considered to adequately reflect the collective values of all SNAs; 'Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas'. If the Commissioners **consider it is appropriate the words 'health and function' could be added to the header sentence.** In the interim, no change is recommended.

80. King Country Energy request ECO-P2 is amended so that the header sentence reads *'While providing for those activities explicitly referenced within ECO-P2, recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of*

significant natural areas by:....' P2.3 **'Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua to the maximum extent practicable, while providing for the maintenance, repair and minor upgrading of existing nationally and regionally significant infrastructure'**. Graymont request ECO-P2 is amended so that P2.3 reads: *'Ensuring indigenous vegetation clearance in locations that are of significance to mana whenua appropriately assess those effects and any resulting development is managed in a way that protects the indigenous biodiversity values of the site'*.

81. **There may be some merit in considering whether the absolute 'avoid' in ECO-P2.3 is appropriate. There may be some circumstances where indigenous vegetation removal is necessary. The wording 'to the maximum extent practicable' seems a helpful addition, indicating there may be very limited circumstances where an 'outlier' situation results in the need to clear a small area of SNA that is also of significance to mana whenua. The recommended amendment is shown below.**
82. Graymont also seek that indigenous vegetation clearance required for the continued operation of lawfully established activities is provided for in the policies. In respect of lawfully established activities, RMA section 6(c) is a matter of national importance. It is not appropriate for this plan to enable indigenous vegetation clearance in an SNA (outside of activities with minor or less than minor effects which are identified as permitted) regardless of whether any activity is lawfully established. Having said this, specific policy provision is provided for clearance in SNAs for regionally significant activities. These provisions apply to both King Country Energy and Graymont. Please see the discussion on this matter in Topic 12.
83. Forest and Bird request that ECO-P2 is completely replaced with new provisions. The majority of the matters the submitter requests are provided for in other parts of the policy framework, and it is not recommended that the changes are accepted. DoC request some minor amendments to the policy. Similar to WRC, they request ECO-P2.1 is amended to read: *'Only allowing the removal of indigenous vegetation in sustainable quantities where the significance of the vegetation or habitat is not reduced'*. P2.1 provides the policy framework for those rules which apply only to locally significant SNAs and amending it in this manner would remove the policy context for those rules. **DoC's proposed change to ECO-P2.2 has the same effect on the regionally, nationally and internationally significant national areas (noting that the proposed amendment to this policy point as a result of WRC's submission). On balance, the changes are not considered necessary as the policy points are designed to address specific matters.**
84. Manulife Forest Management New Zealand Ltd (MFMNZL) request ECO-P2.5 is deleted. This provision provides for connectivity between areas of indigenous vegetation which is a critical component of the health and functioning of ecosystems. It is not appropriate to delete this provision. As amended, ECO-P2 would read:

ECO-P2. Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas by:

1. Only allowing the removal of indigenous vegetation in sustainable quantities within locally significant natural areas; and
2. Only allowing the removal of indigenous vegetation in sustainable quantities and in limited circumstances within internationally, nationally or regionally significant natural areas; and
3. Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua to the maximum extent practicable; and
4. Protecting the health and functioning of significant natural areas that are wetland or include part of a wetland, by avoiding inappropriate land use practices, subdivision and development.
5. Protect and enhance connectivity along and between significant natural areas and other areas of indigenous vegetation and habitat of indigenous fauna.

85. Section 32AA: See Appendix 3

86. As notified ECO-P3 reads:

ECO-P3. Provide for permitted activities and for the continued operation of lawfully established activities in and adjacent to significant natural areas by enabling the removal of indigenous vegetation for:

1. The relocation, maintenance or construction of fence lines for stock exclusion; and
2. Conservation activities; and
3. Construction of permitted building platforms including services and access; and
4. Maintenance of existing roads, driveways, tracks and water intake/discharge structures; and
5. Sustainable harvesting of indigenous vegetation and/or removal of manuka or kanuka where the indigenous biodiversity values and ecological characteristics of the significant natural area are maintained or enhanced; and
6. Limited indigenous vegetation removal to manage fire risk; and
7. Limited indigenous vegetation removal for small scale renewable energy generation.

For all of these activities, the removal of indigenous vegetation is only enabled where:

- (i) The adverse effects on indigenous biodiversity values and connectivity are appropriately avoided, remedied or mitigated; and
- (ii) Any existing cleared areas on a site that are suitable to accommodate subdivision or new development are used in the first instance; and
- (iii) Any practicable alternative locations that would reduce the need for indigenous vegetation removal are used in the first instance; and
- (iv) Consideration is given to the positive benefits of the activity in respect of **people's health and wellbeing**.

87. The policy has the purpose of providing for permitted activities as listed in ECO-R1-R13. Several submitters have requested that matters which are permitted but have not been included in the policy, are added. Other

submitters have asked for amendments which reflect the wording they have proposed for rules ECO-R1-R13. The amendments proposed are very detailed and on balance may not add a great deal to the interpretation of the policy. Instead, it is recommended to amend the policy to reflect the permitted activities it applies to using the rule numbering only. That is, the rule numbers replace the current list of activities. This does not have the affect of changing the notified intent of the policy, but rather reducing its verbosity.

88. Both DoC and WRC request ECO-P4(iv) is deleted or heavily amended. On balance, it is agreed that there is no direction in any of the governing documents to consider the positive benefits of activities which affect SNAs. The intent of the clause was to support positive outcomes of activities such as conservation planting, but this is not well conveyed in the current wording. The best way forward is considered to be deletion of the clause. The recommended amendments would read:

ECO-P3. Provide for the permitted activities and for the continued operation of lawfully established activities as identified in ECO-R1-R13, in and adjacent to significant natural areas by enabling the removal of indigenous vegetation in limited circumstances where: for:-

- ~~1. The relocation, maintenance or construction of fence lines for stock exclusion; and~~
- ~~2. Conservation activities; and~~
- ~~3. Construction of permitted building platforms including services and access; and~~
- ~~4. Maintenance of existing roads, driveways, tracks and water intake/discharge structures; and~~
- ~~5. Sustainable harvesting of indigenous vegetation and/or removal of manuka or kanuka where the indigenous biodiversity values and ecological characteristics of the significant natural area are maintained or enhanced; and~~
- ~~6. Limited indigenous vegetation removal to manage fire risk; and~~
- ~~7. Limited indigenous vegetation removal for small scale renewable energy generation.~~

~~For all of these activities, the removal of indigenous vegetation is only enabled where:~~

- ~~(i) The adverse effects on indigenous biodiversity values and connectivity are appropriately avoided, remedied or mitigated; and~~
- ~~(ii) Any existing cleared areas on a site that are suitable to accommodate subdivision or new development are used in the first instance; and~~
- ~~(iii) Any practicable alternative locations that would reduce the need for indigenous vegetation removal are used in the first instance.; and~~
- ~~(iv) Consideration is given to the positive benefits of the activity in respect of people's health and wellbeing.~~

89. Forest and Bird request ECO-P3 is deleted. WRC ask that ECO-P3.3 is reviewed against WRPS APP11 – Development Principles (k), as well as Policy 3.2.1 and Rule 16.2.1 in the Waikato Regional Coastal Plan (WRCP). Development Principle (k) reads; *promote positive indigenous biodiversity*

outcomes and protect significant indigenous vegetation and significant habitats of indigenous fauna. Development which can enhance ecological integrity, such as by improving the maintenance, enhancement or development of ecological corridors, should be encouraged; This is covered by ECO-P6. Policy 3.2.1 of the WRCP requires the identification and protection of SNAs – presumably in the coastal marine area? And the identification of conservation values in areas of significant conservation value. The district council does not have responsibilities within the coastal marine area. **No change is recommended as a result of either parties' submission points.**

90. **WRC request a definition of 'limited circumstances' and 'sustainable harvesting'. A definition of 'limited circumstances' is discussed above in respect of ECO-P2. In the general rural zone, it was not considered necessary to add a definition of 'sustainable harvesting' given the scope of the definition proposed for 'sustainable forest management'.**

91. Section 32AA: See Appendix 3.

92. ECO-P5 as notified reads:

ECO-P5. Where the limited circumstances of unavoidable removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are being considered (including situations provided for in ECO-P4), regard must be given to the following matters:

1. Whether the area contains nationally significant examples of indigenous community types and indigenous ecosystems and/or vegetation types that are **threatened in the coastal environment, or are naturally rare; and**
2. Effects on the required range of habitats, including roosting, nesting, foraging and migratory pathways of fauna; and
3. Effects on the habitats of threatened and at risk species including migratory pathways; and
4. Effects on the maintenance of ecological corridors, processes and sequences; and
5. Whether sensitive sites remain buffered from intensive land use, development and subdivision; and
6. The outcome of consultation where indigenous vegetation clearance is proposed in locations that are of significance to mana whenua; and
7. Effects on natural waterway and wetland habitats and hydrology; and
8. The legal and physical protection of existing habitat; and
9. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and
10. Whether any practicable alternative locations that would reduce the need for removal of indigenous vegetation or habitats of indigenous fauna or disturbance of wetland areas, are used in the first instance.

93. Given the recommended deletion of ECO-P4, there are some consequential changes to this policy which are required to remove reference to its provisions. These recommended changes are shown below.

94. The majority of submission points relate to ECO.P5.1 which reads: **'Whether the area contains nationally significant examples of indigenous**

community types and indigenous ecosystems and/or vegetation types that **are threatened in the coastal environment, or are naturally rare**'.

95. DoC suggests consideration should be given in ECO-P5.1 as to whether the activity avoids adverse effects on the SNA. WRC requests removal of reference to the coastal environment, and in unison with Forest and Bird, ask that a new clause is added which responds to climate change. Forest and Bird also propose a range of small amendments to the wording of the policy. It is agreed that ECO-P5.1 should apply to all ecosystems and not only those in the coastal environment. A new policy point addressing climate change factors could be considered further. There is concern that this would be very hard for an applicant to address or for Council to assess. This approach is provided for in the coastal environment as directed by higher order documents, but the proposed amendments do not meet the parameters of 3.6 in the NPS-Indigenous Biodiversity or respond particularly well to Policy 4. On balance, no change is recommended. The recommended amendments, including those consequential changes, would read:

ECO-P5. Where ~~the limited circumstances of unavoidable~~ removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are being considered (~~including situations provided for in ECO-P4~~), regard must be given to the following matters:

1. Whether the area contains nationally significant examples of indigenous community types and indigenous ecosystems and/or vegetation types that are threatened ~~in the coastal environment,~~ **or are naturally rare; and**
2. Effects on the required range of habitats, including roosting, nesting, foraging and migratory pathways of fauna; and
3. Effects on the habitats of threatened and at risk species including migratory pathways; and
4. Effects on the maintenance of ecological corridors, processes and sequences; and
5. Whether sensitive sites remain buffered from intensive land use, development and subdivision; and
6. The outcome of consultation where indigenous vegetation clearance is proposed in locations that are of significance to mana whenua; and
7. Effects on natural waterway and wetland habitats and hydrology; and
8. The legal and physical protection of existing habitat; and
9. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and
10. Whether any practicable alternative locations that would reduce the need for removal of indigenous vegetation or habitats of indigenous fauna or disturbance of wetland areas, are used in the first instance.

96. Section 32AA: See Appendix 3.

97. ECO-P6 is largely unchallenged. Forest and Bird request the policy is deleted and incorporated into a new policy. This is not recommended to be accepted. DoC request wording changes to the header sentence which apply the policy to indigenous biodiversity generally. The policy relates to

SNAs only and therefore those amendments are also not recommended. Similarly ECO-P7 has one submission point in opposition. Forest and Bird request the removal of ECO-P7.4 which stipulates taking into account the requirement to mitigate or remedy, through restoration and enhancement, any adverse effects on the values and character of SNAs. Their point is taken as the NPS-Indigenous Biodiversity takes an enabling approach to specified **Māori land. However, this process needs to be worked through** fully with mana whenua and there is reluctance to make amendments to the policy in the interim. As such, no change is recommended.

98. ECO-P8 provides for continuous cover forestry and/or sustainable forest management/sustainable harvesting only where the indigenous biodiversity values and ecological characteristics of the area are maintained or enhanced. There is little national direction on this matter except to exempt the harvest of indigenous tree species carried under a forest management plan/permit from the provisions of 3.10 of the NPS-Indigenous Biodiversity. 3.10 sets out how adverse effects on SNAs must be managed. Forest and Bird request the policy is amended to provide for these activities outside SNAs only and ensures they are set back at least 500m from the boundary of an SNA.
99. Although there is little direct guidance on this matter there are statutory provisions under Part 3A of the Forests Act 1949 and the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017. Given this, it is considered appropriate to provide for this matter by way of ECO-P8 as notified, and via the provisions of ECO-R15 which is a discretionary activity. No changes are recommended.

Topic 8: Policy ECO-P11 - Indigenous biodiversity in the coastal environment overlay

100. ECO-P11 provides for indigenous biodiversity including significant natural areas, located in the coastal environment overlay. The policy is required to give effect to the NZCPS and WRPS. As a result, it is a combination of:
 - At ECO-P11.1 - WRPS CE-P2.1 which reflects NZCPS Policy 11(a).
 - At ECO-P11.2 - NZCPS Policy 11(b)
 - At ECO-P11.3 - WRPS CE-P2.2
 - At ECO-P11.4 - WRPS CE-M5.2
 - At ECO-P11.5 - WRPS CE-P1.6
101. DoC request the policy is amended to include all the clauses from Policy 11(a) of the NZCPS and Forest and Bird request the policy is amended to include all the clauses from Policy 11(a) and (b). As demonstrated above the relevant parts of Policy 11(a) and (b) are included in the text of the policy, referring to the WRPS for Policy 11(a) and directly to Policy 11(b). No change is recommended. Forest and Bird also request ECO-P11.3 is **amended to 'maintain and improve' rather than 'maintain and enhance'.** The words 'maintain and enhance' are used in WRPS CE-P2.2. ECO-P11.3 is considered to appropriately give effect to the WRPS policy provision. No change is recommended.

102. Forest and Bird request ECO-P11.5 is changed to address other impacts of climate change including increasingly severe storms, rather than only referring to sea level rise. ECO-P11.5 directly reflects the wording in WRPS CE-P1.6. There is some merit in amending the wording to reflect climate **change generally rather than solely 'sea level rise'**. However, WRC likely used the term specifically to reflect the impact of a change in sea level on coastal habitat inland migration opportunities and there is a reluctance to amend the policy to make it inconsistent with the approach in WRPS CE-P1.6. On balance, this change is not recommended.

Topic 9: Policies ECO-P12-P13 - Indigenous biodiversity outside the coastal environment overlay

103. ECO-P12 provides that outside of significant natural areas, activities that maintain or enhance indigenous biodiversity including planting of indigenous species, removal or management of pest plant and animal species and other biosecurity works, should be enabled. Hort NZ request the policy is amended to specifically provide for removal of material infected by unwanted organisms under the Biosecurity Act 1993. It is **considered that the reference to 'biosecurity works' in this suitably encapsulates this matter. No change is recommended.**
104. Forest and Bird suggest a minor amendment to the policy wording of **'provide' rather than 'enable'**. **Both terms are considered to be equally satisfactory in the context of this policy so no amendment is recommended. They also request the wording is changed from 'maintain or enhance' to 'maintain and improve'**. WRPS ECO-M4 directs that district plans should include permitted activities where they will have minor adverse effects in relation to the maintenance or protection of indigenous biodiversity. This method applies within and outside SNAs. Policy 8 refers to the importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for. RMA Section 7(f) requires particular regard to the maintenance and enhancement of the quality of the environment. None of these documents require the policy to direct improvement. Given **this, no change to the policy's wording is recommended.**
105. ECO-P13 applies to effects on indigenous biodiversity outside of SNAs. The provision is based on WRPS ECO-P1, ECO-M1 and M2, as well as the provisions in the NPS-Indigenous Biodiversity at 1.7, Maintain Indigenous Biodiversity. To tailor the policy to the **district's, elements are adapted** from WRPS ECO-M13 (which applies to SNAs) to provide for the consideration of alternative sites, buffers and fragmentation. Forest and Bird request a number of amendments to the policy. The first represents a change to the heading sentence to clarify that the policy is to be used during the consideration of adverse effects. This is a helpful addition which has the effect of clarifying how the policy will be implemented. It is not a material change but assists with interpretation. The second corrects ECO-P13 which provide for both the maintenance and protection of habitat of nationally threatened or at risk indigenous species. The recommended

amendments are shown below.

ECO-P13. When considering removal of indigenous vegetation, or adverse effects on habitats of indigenous fauna, or disturbance of wetland areas ~~occurs~~ outside of significant natural areas, ensure the following matters are considered when avoiding, remedying or mitigating adverse effects on indigenous biodiversity:

1. Whether any existing cleared areas on a site that are suitable to accommodate subdivision or new development, are used in the first instance; and
2. Any practicable alternative locations that would reduce the need for removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are used in the first instance; and
3. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and
4. The maintenance of indigenous habitats adjoining wetlands, rivers, springs, karst ecosystems **and fragmented forests; and**
5. The maintenance of buffers around underrepresented or naturally **uncommon indigenous ecosystems; and**
6. The maintenance or creation of ecological stepping stones or corridors to link indigenous vegetation and/or fragmented **ecosystems on land and via waterways; and**
7. The maintenance and protection of habitat of nationally threatened or at risk indigenous species.

106. Section 32AA: The recommended amendments reflect the rule as notified and do not present a material change. The changes to the heading sentence clarify that the policy is to be used during the consideration of adverse effects and assists with interpretation. The second changes corrects an omission where both the maintenance and protection of habitat of nationally threatened or at risk indigenous species must be provided for, rather than only the maintenance. A section 32AA evaluation is not required.

107. Forest and Bird request an amendment to ECO-P13.5 to provide for the **maintenance 'and retention' of buffers 'for protection' around** underrepresented or naturally uncommon indigenous ecosystems. It is considered that retention is inherent in the principle of maintenance and the changes is not required. It is also not considered necessary to specify that buffers are for protection. These changes are not recommended. Forest and Bird also request an amendment to ECO-P13.7 to recognise that exotic vegetation or pasture may provide significant habitat for breeding, roosting, nesting and/or feeding. There is no guidance in higher order documents about this matter, other than in respect of maintaining improved pasture for farming (3.13 NPS-Indigenous Biodiversity) and effects of plantation forestry activities on SNAs (3.14 NPS-Indigenous Biodiversity). As such, this addition does seem to test the limits of management of effects on indigenous biodiversity. On balance, the changes are not recommended.

108. DoC request the policy is amended to provide for the ongoing assessment of the current state of indigenous biodiversity within the District. This is the role of the regional council (3.25 NPS-Indigenous Biodiversity). They also request the policy provides for limiting vegetation clearance within areas of indigenous vegetation that contain threatened, at risk species, or species at the reach of their national or regional distribution limits in the District or are naturally uncommon ecosystems. ECO-P13 does provide for these matters and the correction at ECO-P7 **may address the submitter's** concerns. Given these factors, it is recommended that this submission point is accepted in part.
109. DoC also request that policy support for non-regulatory methods is provided. Waitomo District Council is not able to offer monetary support but does provide rates relief on covenanted areas and offers environmental benefit lots for fencing of water bodies in the Upper Waipa catchment and for protection of SNAs in the coastal environment or karst overlay.

Topic 10: Permitted Activities ECO-R1-R13

110. Both King Country Energy and Graymont have indicated general support for permitted activity limits in ECO-R1-R10. However, the submitters note that Schedule 6 does not provide any detail of the area size of each SNA, which makes it difficult determine what 1% of the particular SNA might be in square metres. They request that the SNA areas are specifically provided. The submitters are correct that the SNA area does not appear in Schedule 6 due to space restrictions, however it is provided on the district plan maps. Each individual SNA can be searched on its site code and the calculated area is shown. See the example in figure 4 below. To make this clear, it is suggested that a note is added to ECO-R1-R10 to signpost plan users to the electronic maps. The recommended amendment is shown below. As this matter is already provided for, it is recommended that the submission points are accepted in part.

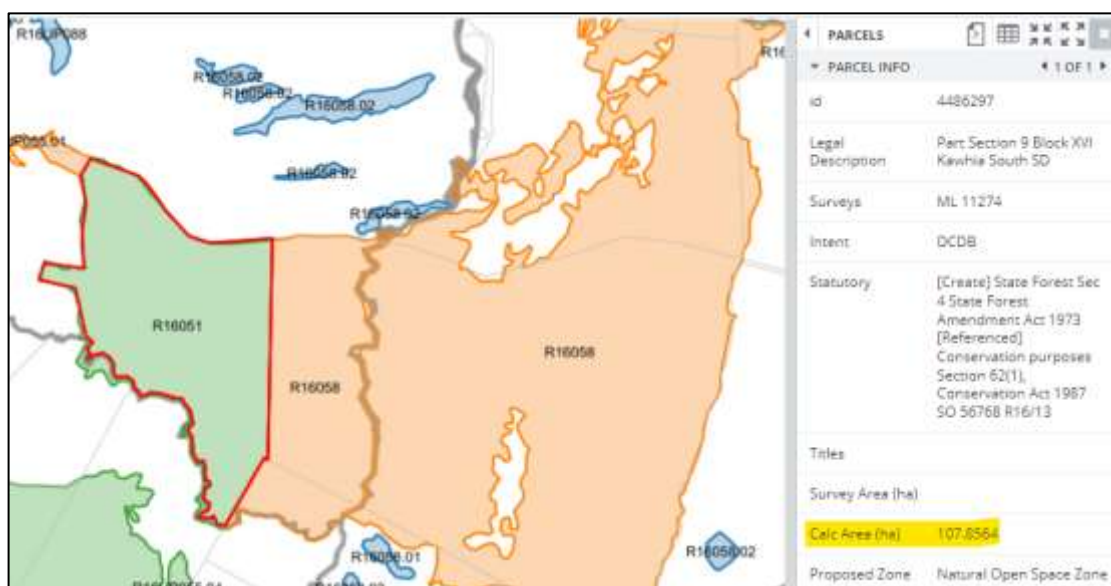


Figure 4: SNA calculated area

111. ECO-R1-10 provides for the Trimming, pruning or removal of indigenous vegetation in SNAs as a permitted activity in the following circumstances:
- R1- Under the direction or control of the Department of Conservation on public conservation estate or Waitomo District Council on Council land
 - R2 - In accordance with the terms of a covenant, relevant order, consent notice or encumbrance
 - R3 - To remove, dead or damaged indigenous vegetation or indigenous vegetation presenting an imminent danger to human life
 - R4 - In the general rural, natural open space, open space and rural lifestyle zones to maintain, relocate or construct perimeter fences for stock exclusion
 - R5 - For maintenance purposes on or within 2 m of existing roads, driveways, tracks, fences or water intake/discharge structures
 - R6 - In the event of a track being destroyed by flooding or landslip or other natural hazard and there are no alternative options to obtain access to undertake existing farming activities, plantation forestry activities or to access an existing residential unit
 - R7- In all zones to manage fire risk
 - R8 - **For Māori cultural and customary uses or for scientific purposes**
 - R9 - For activities identified in the Waikato Regional Pest Management Plan
 - R10 - For conservation activities
112. However, the clearance for these activities must not exceed a maximum of 500m² or less of indigenous vegetation at any one time or in total cumulatively per holding OR less than 1% of the SNA size at any one time or in total cumulatively per holding. Failure to comply with the provisions results in the requirement for a discretionary activity consent.
113. Forest and Bird request ECO-R1 is deleted as it disregards **council's** responsibilities under the RMA. This is not agreed. DoC and the Council operate in the interests of the general public and that ratepayers that they serve. Neither party would clear vegetation in an SNA without justified cause. They are subject to the parameters of the rule so the permitted activity standard does not provide either party with the ability to clear an SNA in an unfettered manner. **In respect of DoC's activities, the rule's** approach is consistent with the NPS-IB 3.10(6). It is recommended that this submission point is rejected.
114. Forest and Bird request ECO-R2 is deleted as other bodies and covenants are developed under other legislation. The Queen Elizabeth the Second National Trust (QEII Trust) request the rule is modified to provide for vegetation disturbance for conservation purposes only. The amendment proposed is similar in nature to the approach in the NPS-IB 3.10(5) and is considered to be an acceptable change. The recommended amendment is shown below. **The definition of 'conservation activities' is discussed further** in Topic 14.
115. ECO-R3 currently reads: To remove, dead or damaged indigenous vegetation or indigenous vegetation presenting an imminent danger to

human life. DoC request that ECO-R3 is amended to read: *'To remove, dead indigenous vegetation or indigenous vegetation presenting an imminent danger to human life'* WRC request the rule is amended to read: *'To remove, dead, diseased or damaged indigenous vegetation or indigenous vegetation presenting an imminent danger to human life.'* Forest and Bird consider that dead and damaged vegetation may form important habitat and ecological function within the SNA and would like **the rule to read: 'Where the indigenous vegetation is presenting an imminent threat to human life'**.

116. On balance, it is agreed that the rule could be reworded to reduce repetition given the main point of the provision is only to provide for the removal of indigenous vegetation that is threatening human safety. The recommended amendment is shown below.
117. ECO-R4 currently permits trimming, pruning or removal of indigenous vegetation in the general rural, natural open space, open space and rural lifestyle zones to maintain, relocate or construct perimeter fences for stock exclusion. DoC request the rule is deleted. Forest and Bird consider it is unclear why a new fence for stock exclusion would go through an SNA. It is noted that fences are often constructed through SNAs. Nature routinely ignores property boundaries and fencing is required to stop stock moving between properties. Fencing is particularly important where it protects Crown conservation land, but the SNA itself extends beyond Crown land into neighbouring privately owned property.
118. Forest and Bird consider that enabling the relocation of a fence is not appropriate and could result in cumulative loss. The area that may be cleared in total is provided for in this rule addressing the issue of cumulative loss. Additionally, it is important to note that it costs a lot of time and resource to relocate fences and it is not undertaken without careful consideration. Forest and Bird suggest the rule is amended to read: *'To maintain a lawfully established fence, where any trimming, pruning or removal is within 1.5m of the fence, or construct a perimeter fence to exclude stock from a significant natural area where any trimming, pruning or removal is within 1m of the new fence line'*. While trimming and pruning around fencelines is provided for in all zones by ECO-R5, it is agreed that it may be clearer to add a distance to ECO-R4. Fish and Game suggest the rule is amended to allow clearance within 2m which aligns with the provisions in ECO-R5. This approach ensure consistency across the two rules and the overall **loss is limited by the rule's provisions**. The recommended amendment is shown below.
119. As a consequence of this submission point, Forest and Bird request that **reference to 'fences' is removed from ECO-R5** as fences would be covered in ECO-R4. This is not recommended as ECO-R4 only provides for fences in the general rural, natural open space, open space and rural lifestyle zones. Whereas ECO-R5 applies to all zones.
120. ECO-R5 permits trimming, pruning or removal of indigenous vegetation for maintenance purposes on or within 2m of existing roads, driveways, tracks, fences or water intake/discharge structures. Fish and Game are concerned that this rule lacks specificity by referring to 'maintenance' but

not defining it. It is considered that maintenance is a well understood term and the rule applies only to existing activities. Therefore, the rule is quite closely constrained to providing for structures in situ and does not provide for indigenous vegetation clearance associated with their removal, relocation or expansion. It is not recommended that a definition of **'maintenance' is required in this instance.**

121. King Country Energy would like to ECO-R5 amended to also provide for maintenance within 5m of existing water intake/discharge structures associated with renewable electricity generation.
122. ENGY-R2 provides for the operation, maintenance, repair, replacement and minor upgrade of an existing hydro-electricity generation activity infrastructure (identified on the Planning Maps as RPROZ-14 to RPROZ-17⁵) as a permitted activity provided ENGY-R21 through to ENGY-R23 is complied with. ENGY-R23.20 provides for up to 50m² of indigenous vegetation to be cleared from an SNA in the rural production zone in any one calendar year. This rule applies in place of the provisions of the ecosystems and indigenous biodiversity chapter. Additionally, RPROZ-14 to RPROZ-17 are exempt the requirements of NATC-R1 which restricts indigenous vegetation clearance adjacent to water bodies. These provisions are **likely to meet King Country Energy's concerns.** It is recommended that this submission point is accepted in part as this matter is already provided for.
123. DoC and Forest and Bird request ECO-R6 is deleted. This rule permits trimming, pruning or removal of indigenous vegetation in the event of a track being destroyed by flooding or landslip or other natural hazard and there are no alternative options to obtain access to undertake existing farming activities, plantation forestry activities or to access an existing residential unit. Fish and Game suggest the rule could be amended by **adding the words 'vegetation removal is limited to the area necessary to obtain access'**. While this is inherent in the rule, it is agreed that it could be valuable to add clarity and the wording is a useful addition. It sets out the expectation that minimal clearance is expected. It is considered appropriate to retain this rule. Waitomo district is largely steep hill country and it can be prone to landslides and flood events. The recommended amendment is shown below.
124. ECO-R7 permits trimming, pruning or removal of indigenous vegetation in all zones to manage fire risk. A number of submitters including Fire and Emergency New Zealand (FENZ) support the rule as notified. Forest and Bird request the rule is deleted and suggest that clearance for fire risk that is not an emergency should be considered through a controlled or restricted discretionary activity consent process to ensure the SNA is protected. They note that section 330 of the RMA provides for emergency situations. Fish and Game request that the rule permits clearance to manage fire risk where it complies with section 43 (powers of persons responding to an emergency in relation to vegetation) and 64 (FENZ may require a landholder to make or remove a firebreak) of the Fire and

⁵ RPROZ-14 Wairere Hydro Power Station, Aria Road and RPROZ-15 Mokauiti Hydro Power Station, Totoro Road and RPROZ-16 Speedies Road Hydro Power Station, Speedies Road and RPROZ-17, Boulder Creek Road Hydro Power Station, Waipa Valley Road

Emergency Act 2017.

125. On reading the Fire and Emergency Act 2017, it is clear that section 65 empowers FENZ to require a landowner to remove or destroy any vegetation if it is reasonably considered that the vegetation is likely to endanger persons or property by increasing the risk of the outbreak or spread of fire. The provisions of this Act largely negate the need for this rule except to confirm that a (retrospective) resource consent is not required of owners directed by FENZ under section 65. As such, although strictly speaking the rule could become an advice note, it might be wise to retain and amend the provision to permit trimming, pruning or removal of indigenous vegetation in all zones to manage fire risk where directed to do so by Fire and Emergency New Zealand. The recommended amendment is shown below.
126. ECO-R9 permits trimming, pruning or removal of indigenous vegetation for pest management activities as identified in the Waikato Regional Pest Management Plan. WRC request the rule is amended to read; *'For pest management activities as identified in the Waikato Regional Pest Management Plan relating to the management of nuisance plants that are impacting on the values of a site or area'*. Hort NZ request the rule applies to *'the removal of material infected by unwanted organisms under the Biosecurity Act 1993'*. Forest and Bird consider that it is not clear why or to what extent pest management activities would need to include the clearance of indigenous vegetation and ask that the rule is deleted.
127. The principle of the rule is not to hinder pest control in any form. For example, sometimes access tracks need to be cut. Given this, **WRC's** proposed amendments which limit clearance to nuisance plants might need reconsideration. One option is to refer to pest species management and any other activities identified in the Waikato Regional Pest Management Plan. This covers plant and animal pest species, and any other activities needed to meet management plan goals. The rule is amended below for further consideration.
128. It is agreed that the removal of material infected by unwanted organisms under the Biosecurity Act 1993 could be added to the rule as this has a positive impact on biodiversity values. The recommended amendment is shown below.

ECO - Table 1 – Activities rules

The rules in this table apply to significant natural areas in all zones, precincts and on the surface of water unless specified otherwise. It does not apply to roads .	
Trimming, pruning or removal of indigenous vegetation is permitted where undertaken in the following circumstances:	
ECO-R1.	Under the direction or control of the Department of Conservation on public conservation estate or Waitomo District Council on Council land
ECO-R2.	In accordance with the terms of a Queen Elizabeth II Covenant, Nga Whenua Rahui Kawenata, Heritage Protection Order or covenant under the Reserves Act 1977 or Conservation Act 1987 or other relevant order,

	covenant, consent notice or encumbrance where the works are for the purpose of conservation activities only .
ECO-R3.	To remove, dead, diseased or damaged indigenous vegetation or indigenous vegetation presenting an imminent danger threat to human life
ECO-R4.	In the general rural, natural open space, open space and rural lifestyle zones to maintain, relocate or construct perimeter fences for stock exclusion where any trimming, pruning or removal is within 2 m of the fence
ECO-R5.	For maintenance purposes on or within 2 m of existing roads , driveways, tracks, fences or water intake/discharge structures
ECO-R6.	In the event of a track being destroyed by flooding or landslip or other natural hazard and there are no alternative options to obtain access to undertake existing farming activities, plantation forestry activities or to access an existing residential unit . Vegetation removal is limited to the area necessary to obtain safe access.
ECO-R7.	In all zones to manage fire risk where directed to do so by Fire and Emergency New Zealand .
ECO-R8.	For Māori cultural and customary uses or for scientific purposes
ECO-R9.	For pest species management and any other activities as identified in the Waikato Regional Pest Management Plan and for the removal of material infected by unwanted organisms under the Biosecurity Act 1993.
ECO-R10.	For conservation activities
<p>Activity Status: PER</p> <p>Where:</p> <p>1. From 20 October 2022 any clearance must be no more than a maximum of 500 m² or less of indigenous vegetation at any one time or in total cumulatively per holding OR less than 1% of the SNA size at any one time or in total cumulatively per holding – whichever is the lesser.</p> <p>NOTE: The area of each SNA is provided on the electronic version of the district plan maps.</p>	
<p>Activity status where compliance is not achieved: The activity is subject to the provisions of ECO-R16.</p>	

129. Section 32AA: The recommended amendments are minor in nature, either signposting a matter to better direct plan users, clarifying the application of a notified rule, aligning a rule to another provision for consistency or clarifying scope to improve interpretation. A section 32AA evaluation is not required.
130. Currently clearance permitted by rules ECO-R1-R10 from 20 October 2022 must be no more than a maximum of 500m² or less of indigenous vegetation at any one time or in total cumulatively per holding OR less than 1% of the SNA size at any one time or in total cumulatively per holding – whichever is the lesser. This rule applies to the lifetime of the

plan.

131. DoC would like the rule amended so that from 20 October 2022 any clearance must be no more than 100 m², or 1% of the SNA, whichever is the lesser, per holding per calendar year, or 500 m² over any 5 year period; or in total cumulatively per holding OR less than 1% of the SNA size at any one time or in total cumulatively per holding – whichever is the lesser. They also request that any clearance must be more than 10m from a waterbody. Clearance adjacent to water bodies for all indigenous vegetation is already managed by NATC-R1.
132. Forest and Bird request that the area limit for clearance and appropriate limits for vegetation clearance should be set against the specific rule circumstance. The clearance limits were set on the advice of an ecologist and are considered to be appropriate for the activities that they apply to. WRC request the vegetation clearance limits are reduced and an appropriate time limit between removals is set.
133. These submission points indicate that the rule's **wording** is not very clear, particularly regarding the way in which the rule is intended to be applied over the lifetime of the plan. The plan has a lifespan of 10 years. It is recommended that the rule reformatted to make this clear:
1. From 20 October 2022 to 20 October 2032 any clearance must be no more than either:
 - (i) a maximum of 500 m² or less of indigenous vegetation either at any one time or in total cumulatively per holding;
 - OR
 - (ii) less than 1% of the SNA size either at any one time or in total cumulatively per holding – whichever is the lesser.
 2. For the avoidance of doubt, should this rule remain operative past 20 October 2032, the rule applies to subsequent 10-year periods.
134. Section 32AA: The recommended amendments reflect the rule as notified and do not present a material change. The rule was intended to apply to the lifetime of the plan. Submissions indicated that this was unclear and the rule has been amended accordingly to clarify this. A section 32AA evaluation is not required.
135. ECO-R11 permits the removal of up to 150m² of indigenous vegetation within local category SNAs only for a maimai, building platforms approved before the plan was notified, or for a building housing a tourism facility, tramping/hunting hut, visitor accommodation or honey production.
136. Forest and Bird request that the rule is amended to a controlled activity and widened to apply to all building sites. This is not agreed to. In the first instance this increases the potential for clearance across all categories of SNAs, guaranteeing the activity is permitted in internationally, nationally and regionally significant SNAs. It also reduces the default activity status from discretionary to controlled (noting this was part of a suite of amendments proposed which significantly increased regulation of other matters). On balance, the notified approach is considered to offer limited ability for some appropriate activities within local category SNAs. This approach meets the direction in WRPS ECO-M4 which recognises activities having minor adverse effects on indigenous biodiversity.

137. ECO-R12 permits the removal of up to 100m² of indigenous vegetation within SNAs only for small scale renewable energy generation. The default activity status is discretionary. Forest and Bird request that the rule is amended to a restricted discretionary activity with a default to non-complying status. Both WRC and Forest and Bird suggest an additional performance standard which reads: *There are no other suitable sites for the proposed activity.*
138. ECO-R12 meets Policy F of the NPS-Renewable Electricity Generation 2011 which directs district plans to include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation from any renewable energy source to the extent applicable to the district. It is considered that permitted activity status is appropriate to fulfil this direction, however, it is agreed that the rule would benefit from ensuring that other potential sites were considered before it was deemed necessary to clear an SNA. The recommended amendment would read:

ECO-R12.	Small scale renewable energy generation	
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> 1. The removal of indigenous vegetation is for the construction of one wind turbine per holding compliant with output, height and diameter requirements of ENGY-R9; or 2. The removal of indigenous vegetation is to install one group of freestanding solar panels up to 6 m² in area per holding (see ENGY-R5); or 3. The removal of indigenous vegetation is for the construction of hydro-electricity generation of up to and including 5 kW of electricity per holding (see ENGY-R7); <p>AND in all cases:</p> <ol style="list-style-type: none"> 4. The removal of indigenous vegetation does not exceed 100 m²; and 5. There are no other suitable sites for the proposed activity. 	<p>Activity status where compliance is not achieved: The activity is subject to the provisions of ECO- R16.</p>	

139. Section 32AA: The recommended amendment is a minor change to ensure the intention of the rule is better expressed. It is not the aim of this plan to provide for unfettered clearance of SNAs when alternative sites are available to house an activity. The amendment articulates this. A section

32AA evaluation is not required.

140. ECO-R13 permits the removal of up to 250m² of manuka or kanuka per holding per calendar year provided the area is replanted within 6 months or allowed to regenerate and no removal occurs within 5 m of a water body. Forest and Bird request the rule is deleted. They consider it is difficult to understand how indigenous biodiversity can be protected through indigenous vegetation removal and harvesting in a significant natural area.
141. The rule does provide some leeway to landowners to harvest manuka and kanuka and is used in other plans in the region. It can also be important to remove manuka and kanuka on a rotational basis to provide for bees. WRC observe that manuka and kanuka infected by myrtle rust may require removal in greater quantities than what is permitted by this standard. DoC request the amount of removal is reduced to 50m² per year or 250m² over a 5 year period. They also request the removal is extended from 5 to 10m from a water body, does not occur in a bat protection area or where there are at risk or threatened species. On balance, given the rule has been reviewed by an ecologist, it is considered appropriate to retain it unamended. It is noted that there is a minor error in the wording which requires correction:
1. The removal of manuka or kanuka is no more than 250 m², ~~whichever is the lesser~~, per holding per calendar year; and
142. Section 32AA: The recommended amendment corrects a grammatical error. A section 32AA evaluation is not required.

Topic 11: ECO-R14–R17

143. ECO-R14 requires a restricted discretionary activity consent for the removal of up to 500m² of indigenous vegetation over the lifetime of this plan to provide for outdoor education activities or adventure tourism activities. Similar to ECO-R1-10's **performance standard**, DoC's **submission point indicates that the rule's wording is not very clear** regarding the way in which the rule is intended to be applied over the lifetime of the plan. It is recommended that the rule is reworded to make this clear. DoC also request that the report that is required to be submitted with the application is extended to all SNAs, rather than only those SNAs in the coastal environment and karst overlay. Consultation with an ecologist on this matter indicates that this is a reasonable amendment to the rule to ensure that the application is fully assessed.
144. Forest and Bird request the rule is deleted or amended to a discretionary activity. It is considered appropriate to provide for these activities and the proposed amendments ensure that the application demonstrates the site is not vegetation or habitat that is currently a naturally uncommon or significantly underrepresented ecosystem or habitat for indigenous species or associations of indigenous species that are classified as threatened or at risk, endemic to the Waikato region or at the limit of their natural range.

Additionally, the matters of discretion can be readily identified indicating that restricted discretionary status is appropriate.

145. WRC request ECO-R14 is amended to reduce the length of the sentences so that they are easier to interpret. This is accepted in part and a similar arrangement applied to ECO-14.1 as is used in ECO-R10. The amendments together would read:

ECO-R14.	Removal of indigenous vegetation for outdoor education activities or adventure tourism activities
<p>Activity Status: RDIS</p> <p>Where:</p> <ol style="list-style-type: none"> 1. Over the lifetime of this plan, the any clearance is must be no more than either: <ol style="list-style-type: none"> (i) a maximum of 500 m² or less of indigenous vegetation per holding OR (ii) less than 1% of the SNA size – whichever is the lesser; <p>to provide for outdoor education activities or adventure tourism activities comprising ziplining, canyon swinging, high ropes, rock climbing, abseiling or caving activities only; and</p> 2. In the coastal environment overlay or karst overlay, a A report from an experienced ecologist is submitted at the time of application which demonstrates that the site is not vegetation or habitat that is currently a naturally uncommon or significantly underrepresented ecosystem or habitat for indigenous species or associations of indigenous species that are classified as threatened or at risk, endemic to the Waikato region or at the limit of their natural range. <p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> (a) The location, extent and area of indigenous vegetation proposed to be removed; and (b) Effects on indigenous biodiversity, connectivity, values and characteristics of the significant natural area; and (c) Outcomes of the ecological assessment report; and (d) Outcomes of consultation with mana whenua where the site has identified cultural or archaeological values; and (e) Positive effects on the ecological values of the site; and (f) The extent to which existing vegetation is retained in order to mitigate the effects of streambank, coastal and slope erosion, sedimentation, water quality degradation and loss of indigenous species habitat; and (g) Methods proposed to avoid or minimise potential adverse effects on indigenous biodiversity including consideration of the no net loss principle and rehabilitation measures; and (h) Alternatives to removing indigenous vegetation from a significant natural area. <p>Activity status where compliance is not achieved: DIS</p>	

146. Section 32AA: The first amendment reflects the rule as notified and does not present a material change. The rule was intended to apply to the lifetime of the plan and has been reformatted for clarity. Submissions indicated that this was unclear and the rule has been amended accordingly to clarify this. The second amendment extends the requirement to provide a report. Although this will affect additional sites, it is considered that a report could be requested as part of an application in any event should the processing officer consider this is necessary. A section 32AA evaluation is not required.
147. ECO-R15 requires a discretionary activity consent for continuous cover forestry and/or sustainable forest management/sustainable harvesting in local category SNAs only. The rule defaults to non-complying. Forest and Bird request the rule is deleted. This is not agreed. The rule provides for these activities in very limited circumstances, subject to an ecologist's report and is a discretionary activity. It is considered that enough safeguards are in place and no change is recommended.
148. ECO-R16 is the default rule where compliance with ECO-R1-R12 cannot be achieved and also applies to removal of indigenous vegetation within SNAs for any other purpose. It requires a discretionary activity consent for removal in a local category SNA and a local or regional category SNA where the land has been returned under Te Tiriti o Waitangi settlements. Otherwise, the removal of indigenous vegetation is non-complying.
149. WRC request the rule is amended to classify large scale clearances as non-complying. This rule is the default rule. It applies to all indigenous vegetation clearance regardless of scale. As noted above, subject to two exceptions, the activity status is non-complying. WRC request that ECO-R16.3 is amended to refer to a 'suitability qualified and reputable ecologist' **rather than an 'experienced ecologist'**. They also consider that the report provided must be ground-truthed in accordance with DoC standard operating procedures and must be peer reviewed. Ventus Energy would like the rule to apply to both local and regional category SNAs. Both WRC and Forest and Bird would like the rule amended to non-complying status.
150. **The wording 'experienced ecologist' is considered to be appropriate.** It is used throughout the chapter and encapsulates the requirement for an ecologist to be both qualified and proficient in their field. It is also not considered necessary to require ground-truthing as this is an expectation in these types of applications. Where it is not undertaken, it would be likely that the Council would request a peer review which ground-truthed the site. Requiring a peer review needs to be at the discretion of the processing consents officer. There may be circumstances where this rule is triggered by a very small area of clearance in a nationally significant SNA (for example), and a peer review is not required.
151. Similarly, it is not considered appropriate to extend the provisions of this rule to regional category SNAs. This rule was drafted on the advice of an ecologist and it is considered appropriate that clearance in regional category SNAs is non-complying except in specified circumstances (those being where land has been returned under Te Tiriti o Waitangi settlements or the removal meets the standards for the permitted activities listed in

this plan). It is also not considered appropriate to change the activity status from discretionary to non-complying given only 7% of the SNAs are local category. This means that for 93% of the SNAs, clearance is a non-complying activity. The activity status for this rule is considered to be appropriate.

Topic 12: Regionally significant sites in the Rural Production Zone

152. Graymont and King Country Energy request that a new clause is added to ECO-P13 to provide policy support for nationally or regionally significant infrastructure or for renewable electricity generation (King Country Energy) and activities associated with significant mineral resources (Graymont). Both parties also request changes to ECO-R16.3 so that the rule provides for the removal of vegetation associated with nationally or regionally significant industry, infrastructure or significant mineral resources that exceeds 500m² at any one time, or in total cumulatively per holding.
153. Infrastructure is largely provided for in the network utilities chapter where there are standalone rules for indigenous vegetation removal. NU-R37 permits 150m² of clearance in an SNA per holding calendar year where this is required by statute or regulations or indigenous vegetation is threatening a network utility, or for maintenance purposes within 2 m of existing roads, driveways, tracks, fences or water intake/discharge structures. Activities that cannot comply are discretionary. Activities provided for in the energy chapter must comply with the provisions of the ecosystems and indigenous biodiversity chapter.
154. In respect of King Country Energy, regionally significant infrastructure located in the rural production zone (RPROZ-14 to RPROZ-17 which are hydro-electric power generation sites) do have their own provision (ENGY-R23.20) which enables no more than 50 m² of indigenous vegetation to be cleared from any SNA across a rural production zone in any one calendar year. Failure to comply is a restricted discretionary activity and this rule applies in place of the provisions of the ecosystems and indigenous biodiversity chapter. This provision was largely provided because hydro-electric power generation sites tend not to be expansive in the same way as quarries and industrial sites and clearance is more likely to be related to small scale maintenance.
155. This leaves regionally significant industry and significant mineral resources (Graymont) in the rural production zone which must comply with the rules in the ecosystems and indigenous biodiversity chapter. However, although the ECO rules apply to ensure there is a full assessment of any proposed clearance, there is a different policy approach for these sites.

ENGY-P13 and RPROZ-P2.

Where the removal of indigenous vegetation in a significant natural area is unavoidable to provide for activities on sites identified as regionally significant, the ensuing operations must remedy or mitigate adverse effects in that order in the first instance, or if this is not possible, offset adverse effects on the indigenous biodiversity values and ecological characteristics of the significant natural area by:

1. Providing a biodiversity offset that is consistent with the framework detailed in Appendix 4 Biodiversity Offsetting Framework; and
 2. Ensuring the biodiversity offset can achieve no net loss of indigenous biodiversity values at a regional scale, preferably in the affected significant natural area, or where that is not practicable, in the ecological district in which the affected significant natural area is located.
156. Regionally significant sites provided for in RPROZ are not required to avoid adverse effects on SNAs. Instead, the policy intention is to ensure that where the loss is unavoidable (ie the site must expand into an SNA), remedy, mitigation and offset are applied in that order. It is not appropriate to exempt regionally significant industry and mineral resources from the ECO rules in the same way that network utilities and energy production sites (which are generally lifeline utilities) are provided for. Instead, the policy approach is designed to differentiate these sites and provide a clear pathway for assessment and management of effects.
157. In respect of the submission points on ECO-R16.3, it is recommended that **King Country Energy's submission is accepted in part as this matter is** provided for in the plan, and **Graymont's submission point is declined**. In respect of the submission points on ECO-P13, this is tricky. The NPS-Indigenous Biodiversity provides for 'specified infrastructure' and mineral extraction activities (within parameters) within SNAs (see 3.11) but does not make any specific exemptions for these activities in relation to district-wide (non-SNA) indigenous biodiversity which does leave a policy gap. Having said this, regionally significant activities are able to clear indigenous vegetation as a permitted activity unless they are located in an overlay and the area/rate of clearance triggers a rule. On balance it is considered best to leave ECO-P13 as notified and to address the Graymont submission point in the natural features and landscapes chapter which controls indigenous biodiversity in the karst overlay.
158. Graymont and King Country Energy request that ECO-P3 and ECO-P5 are amended. King Country Energy request indigenous vegetation removal for nationally or regionally significant infrastructure is added to the policy. The intent of ECO-P3 is only to provide for permitted activities identified in ECO-R1-R13. This activity is not provided for in those rules and as such the policy does not apply to it. Graymont list a number of additions to the policy including culverts, bridges, stormwater detention, upgrading of roads, along with the provision for regionally significant activities. The majority of the activities listed are maintenance that are not likely to affect SNAs. The activities in ECO-R1-R13 are deliberately restricted. Amending

ECO-P3 is not the correct policy vehicle for these changes. No amendment is recommended.

159. Similarly, ECO-P6 seeks to encourage a range of actions that promote positive indigenous biodiversity outcomes and long-term ecological functioning. Adding a new clause supporting regionally significant activities is again, not the correct policy vehicle for these amendments. No amendment is recommended.
160. King Country Energy request that SNAs R17028 and R17UP035 are not overlaid on any parts of its Mokauti Hydro-electric power scheme. SNA R17028 is noted to be of regional significance. SNA R17UP035 is noted to be of local significance. The submitter notes that while the SNAs appear to avoid the Mokauti Power Station and Dam, they sit in very close proximity and may impinge upon the operations and activities that occur on the Mokauti scheme site. As noted above, regionally significant infrastructure located in the rural production zone including Mokauti, are provided for under ENGY-R23.20. This rule allows up to 50 m² of indigenous vegetation to be cleared from any SNA across a rural production zone in any one calendar year. This provision is designed to provide for the operations and activities which occur on the site. The SNAs are considered to be appropriately identified and correctly mapped. Should King Country Energy wish to examine this matter further, ecological evidence should be **provided for the Commissioner's consideration**. In the interim, no change is recommended.
161. Finally, King Country Energy do not request a specific decision but note that there is no alternate permitted activity rule for either existing or new renewable energy generation (that falls outside of small-scale) or for national or regionally significant infrastructure, within the ECO chapter. That is correct. As discussed above, existing regionally significant infrastructure in the rural production zone is provided for in the energy chapter. Limited clearance is allowed for small scale renewable generation. New larger scale sites must adhere to the provisions in the ecosystem and indigenous biodiversity chapter or apply for a plan change to become a rural production zone (if they meet the criteria as regionally significant).

Topic 13: Plantation Forestry

162. ECO-P9 seeks to avoid plantation forestry afforestation and harvesting in significant natural areas. New Zealand Forest Managers (NZFM) and Manulife Forest Management New Zealand Ltd (MFMNZL) request that ECO-P9 is deleted to align with the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. PF Olsen request it is deleted or amended to include all primary production activities. Forest and Bird request ECO-P9 is amended to avoid plantation forestry afforestation and harvesting in significant natural areas and set back new plantation forest 1km from SNAs listed in Schedule 6 or otherwise able to be reasonably identified. ECO-R17 requires a non-complying activity consent for plantation forestry afforestation and harvesting. MFMNZL and NZFM request the rule is delated. Forest and Bird

request the rule is amended to prohibited activity status. Quite opposing views.

163. There are only two rules in the ecosystems and indigenous biodiversity chapter which prevail over the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017. Those are ECO-15 and ECO-17. The plan otherwise relies on Regulation 93 to manage clearance of indigenous vegetation associated with a commercial forestry activity.
164. Regulation 93 permits clearance of indigenous vegetation if the clearance does not occur within an SNA (except in some circumstance for clearance of a forestry track). Regulation 93 also permits incidental damage in an SNA if the damage does not significantly affect the values of the SNA and allows the ecosystem to recover within 36 months. Where the permitted standards cannot be achieved a restricted discretionary resource consent is required. This means that in theory, an SNA could be cleared for a new forestry track or forestry quarry as a restricted discretionary activity. Clause 6(2)(b) enables the plan to be more stringent. The decision has been made to rely on the provisions of the Regulations rather than invoking clause 6(2)(b). That is, the plan relies on the statutory bottom line being Regulation 93 to manage the effects of forestry activities on SNAs.
165. Policy 12 of the NPS-Indigenous Biodiversity requires that indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities. 3.14 of the NPS-Indigenous Biodiversity seeks to manage the adverse effects of any existing plantation forest on any SNA in a manner that maintains indigenous biodiversity in the SNA as far as practicable, while providing for plantation forestry activities to continue. 3.14(3) requires district plans to be consistent with the provisions of 3.14.
166. Firstly, note the provisions of the NPS-Indigenous Biodiversity and the Regulations do not quite align. In Waitomo, as the SNAs have been carefully identified and consulted on with landowners, it is unlikely that there is plantation forestry within SNAs. Therefore, relying on the statutory bottom line (Regulation 93) is consistent with 3.14 as SNAs should not be subject to any more danger than incidental damage without the need for consideration under a resource consent process.
167. However, this approach means that it is critical to ensure that the establishment (afforestation) and subsequent harvesting of plantation forestry in SNAs is avoided. Accordingly ECO-P9 uses the term 'avoid' and ECO-R17 is a non-complying activity. The other option is to relax the policy approach, reduce the activity status and require setbacks around each forestry SNA. Alternatively, clause 6(2)(b) could be used to introduce a new rule to the plan in place of/as well as Regulation 93 to manage damage to SNAs that is more than incidental. Both of these options are difficult to implement and the introduction of additional regulation where an NES is in place is unnecessary duplication.
168. In respect of changing the activity status to prohibited as requested by

Forest and Bird, ECO-P9 requires that plantation forestry afforestation and harvesting in significant natural areas is avoided. As a non-complying activity, the proposal must be assessed against section 104D which is a disjunctive two limbed test. The proposal must either not be contrary to the objectives and policies of the plan or the adverse effects of the activity on the environment will be minor. The first limb of s104D cannot be met. However, there could be occasions where harvesting (for example) a tree or trees has a minor effect or a less than minor effect on the SNA. For this reason, blanket prohibition is not appropriate. The rules in this plan are considered to be stringent enough to manage any potential adverse effects on SNAs.

Topic 14: Definitions

169. The notified definition of 'conservation activity' reads:

Conservation activity means any activity that involves the preservation and protection of indigenous habitat, flora and fauna that fundamentally benefits indigenous biodiversity and safeguards it for future generations. For the avoidance of doubt, the following activities are conservation activities:

- (a) Conservation planting.
- (b) The restoration of wetlands and the margins of water bodies.
- (c) Stock exclusion.
- (d) Research and monitoring.
- (e) The establishment, maintenance or upgrading of public walking/cycle tracks.
- (f) Interpretive signs and directional signs.
- (g) Any Department of Conservation or Fish and Game New Zealand structure or building for visitor purposes or staff accommodation on public conservation land.
- (h) Underground structures on Crown land.
- (i) Ecosystem protection, rehabilitation or restoration works including removing plant pests as identified in the Waikato Regional Pest Management Plan and riparian fencing, including crossings and their approaches that are consented, permitted or otherwise authorised by Waikato Regional Council.

170. The New Zealand Agricultural Aviation Association and Heli A1 Limited request the definition of conservation activities is amended to provide for weed and pest control and the intermittent use of aircraft for conservation purposes. Significant amendments were made to the definition of agricultural aviation activities in the general rural zone Section 42A Report **which should provide for the submitters' concerns. The definition now includes 'conservation activities for biosecurity, or biodiversity purposes'.** Given this proposed change provides the same relief it is recommended that the submission points are accepted in part.

agricultural aviation activities means the intermittent operation of an aircraft from a rural airstrip or farm helipad for primary production activities, and; conservation activities for biosecurity, or biodiversity purposes; including firefighting, stock management, and the application of fertiliser, agrichemicals, or vertebrate toxic agents (VTA's). For clarity, aircraft includes fixed-wing aeroplanes, helicopters, and unmanned aerial vehicles (UAV's).

171. Similarly, DoC request the definition is amended to provide for '*any use of aircraft by the Department of Conservation*'. This matter was addressed in the noise chapter Section 42A Report where it was recommended that Helicopters used by the Department of Conservation be exempt from any noise rules and unrestricted flight movements were provided for in the general rural, rural production and natural open space zone. Given this proposed change provides the same relief it is recommended that the submission point is accepted in part.
172. The New Zealand Helicopter Association request the definition is extended to provide for the establishment, maintenance or upgrading of public walking/cycle tracks '**and infrastructure**'. **Infrastructure has a wide** meaning under the RMA and includes airports, highways and network utilities. It is not recommended that the definition of conservation activities includes these matters.
173. Forest and Bird request the definition is amended at (i) as follows:
- (i) Ecosystem protection, rehabilitation or restoration works including removing plant pests or the management of a nuisance plant or animal species that is impacting on the biodiversity values of a site or area as identified in the Waikato Regional Pest Management Plan ~~and riparian fencing, including crossings and their approaches that are consented, permitted or otherwise authorised by Waikato Regional Council~~
174. WRC seek removal of reference to the Waikato Regional Pest Management Plan. Federated Farmers request the definition is amended to include the control and/or removal of any plants and animals that detract from the indigenous biodiversity values. To address these submission points, in the first instance reference to the Waikato Regional Pest Management Plan can be removed as it is now covered in full by ECO-R9 and including it in the definition would be a duplication. The definition could also be amended to make it clear that riparian fencing and crossings must be associated with ecosystem protection, rehabilitation or restoration works. This requires some reformatting but the wording could be amended to incorporate the **intent of all of the parties' submission points as follows:**
- (i) Ecosystem protection, rehabilitation or restoration works including: **removing plant pests**
- **associated** riparian fencing, including crossings and their approaches that are consented, permitted or otherwise authorised by Waikato Regional Council; **and**
 - **the management of nuisance plant or animal species adversely impacting biodiversity values** ~~as identified in the Waikato Regional Pest Management Plan~~
175. Section 32AA: The amendment reflects the definition as notified and does not present a material change. Reformatting and the use of bullet points enables clearer interpretation of the provision. 'Plant pests' are replaced with '**nuisance plant or animal species**' to **compensate for the removal of** reference to the Waikato Regional Pest Management Plan (which was also provided for in ECO-R9). A section 32AA evaluation is not required
176. Forest and Bird request other amendments to the definition including the deletion of stock exclusion, public walking/cycling tracks, DoC and Fish

and Game buildings and underground structures on crown land. Removing these matters from the definition has the effect of requiring DoC to seek a resource consent under ECO-R10 for many of the small scale clearances they routinely undertake. This is not considered to be an effective use of public funds or a good way to manage minor adverse effects. They also request amendments so that conservation planting uses plants from the same ecological district and request research activities and erection of signs do not result in removal of whole plants. These matters cannot be effectively enforced by the provisions of a district plan. These changes are not recommended.

177. **Forest and Bird have requested definitions are added for 'conservation (or restoration) planting' and 'vegetation clearance or removal'.** The New Zealand Defence Force (NZDF) request a **new definition for 'motorised craft'** is added to the plan. All of these definitions are considered to be commonly understood terms and it is not considered necessary to add these to the plan.

Topic 15: Network Utilities

178. Transpower has made a placeholder submission requesting the Ecosystems and Indigenous Biodiversity chapter recognises the National Grid in the event that the specific National Grid policies in the National Electricity and Gas Transmission (NGET) Chapter do not prevail. It is the intention of this plan to manage activities which affect the national grid through the NGET provisions and to provide specific provisions relating to indigenous vegetation within and outside SNAs through NU-R37 and the supporting policy framework in the network utilities chapter. Accordingly, it is recommended that this submission point is accepted in part.
179. Kiwi Rail Holdings request that ECO-P3 is amended to provide for railways. Chorus et al request the policy provides for network utilities. As noted above, specific indigenous biodiversity provisions are provided for in NU-R37 and the supporting policy framework in the network utilities chapter. Accordingly, it is recommended that this submission point is accepted in part.

Topic 16: Schedule 6 and Planning Maps

180. Submitters requesting the removal of, alteration to, or addition of an SNA should note that their request has been forwarded to an ecologist for assessment. Please see Appendix 1 for comments against each submission point. Please note where a request has been made to add SNAs, this will be considered given the proposed amendments on 30-9-24 to the Resource Management (Freshwater and Other Matters) Amendment Bill 2024. However, there is no guarantee that any potential changes can be made giving the Bill may be amended again as it progresses through the house.

181. WRC request the title for the final column of the table in Schedule 6 is changed **from 'WRC Karst' to 'Top 58 Karst SNA.'** This is not a very meaningful amendment in terms of plan users interpreting the column and the column is explained in an advice note above the table. That is not to say that a change is not warranted – but perhaps a better description than the notified version could be offered during the hearing or expert conferencing? In the interim it is recommended that the submission point is rejected.

Site Code	Site Name	Criteria	Significance	WRC Karst
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182. WRC and Forest and Bird ask that an advice note is added above the table in Schedule 6 stating that further information relating to the biodiversity values of each site is available on request, including a link to the approach for requesting this information. The amendment would read:

[Further information on the biodiversity values for each site is available. Please follow this link to request this information.](#)

183. Section 32AA: The amendment is an advice note signposting further information. A section 32AA evaluation is not required
184. Forest and Bird request that the Significant Natural Areas layer is made more widely accessible. **WRC request that the 'Significant Natural Areas'** data layer, including the significance levels, is published on the Waikato Data portal :Waikato Data Portal (waikatodistrict.govt.nz). There is no objection to publishing or sharing the data but there is no understanding of what the data portal is or how it relates to 'Waikato District' (see above brackets). Perhaps more information can be provided at the hearing to assist the Commissioners. In the interim it is recommended that the submission points are rejected.
185. Ventus Energy request all the maps are amended to more accurately detail the location of the SNAs and have indicated that they will undertake a detailed assessment to support the submission in advance of the hearing.

Topic 17: Other matters

186. WRC request a new rule is added to the chapter which addresses setbacks for vegetation clearance from water bodies. This matter is addressed in the natural character chapter. This is consistent with direction in the National Planning Standards which states: ***'If provisions to protect the natural character of wetlands, lakes and rivers and their margins are addressed, they must be located in the natural character chapter'***. The Standards also set out what must be included in the ecosystems and indigenous biodiversity chapter. No amendment is recommended.
187. WRC request provisions relating to the prevention of the spread of kauri dieback disease are included in the chapter. Waitomo District is located south of the natural extent of kauri in the Waikato. While there are some

individual trees and groups of kauri trees in the district, they are not endemic to the area. No amendment is recommended, however a watching brief will be kept on this matter given climate change may influence the natural range of some species.

188. Forest and Bird request a new rule is added that addresses setbacks for vegetation clearance from water bodies. It is recommended that this submission point is rejected given a rule in another chapter (NATC-1) is in place to address this matter. Please see the Table 2 above which summarises its provisions.
189. Forest and Bird request the overview is amended to state that effects on **SNAs within the Manawatū Whanganui region are addressed by both the district and regional plan. In the Manawatū-Whanganui region part of the district it is the Regional Council's function** to provide for the protection of indigenous biodiversity and SNAs. This is managed through the regional plan. **Waitomo District Council has mapped the SNAs in the Manawatū Whanganui** part of the district, but these are for information purposes only. As such, the chapter only applies to the Waikato region and any amendment is not appropriate, given the division of functions.
190. Forest and Bird made a number of requests relating to the chapter overall. This included reformatting the rules, removing the exempting for road under the permitted activity provisions in ECO-R1-R10, adding a separate provisions table for indigenous biodiversity outside of SNAs and adding colouring required by the National Planning Standards. Most of the matters have been addressed but specifically, there is no colouring required by the Planning Standards other than in the mapping standard. Additionally it is considered appropriate to exempt roads from the permitted activity rules as there is a low likelihood of adverse effects and minimal clearance generally permitted without a consent or designation.
191. Forest and Bird also request that the subdivision rules include the requirement for an assessment against the significance criteria of the RPS to determine any significant natural areas in the area to be subdivided. Given the changes proposed in the Resource Management (Freshwater and Other Matters) Amendment Bill 2024, this cannot be provided for.
192. Forest and Bird request rules and matters of control for subdivision to create allotments on a site with an SNA. If the SNA does not meet the performance standards, including being legally protected in perpetuity by way of a conservation covenant, it would become a discretionary activity. This seems rather an onerous approach given there are rules proposed in the chapter which require a consent to clear an SNA for a building platform and the subdivision chapter contains provisions for subdivision where this is for the protection of scheduled sites and features (including SNAs). It is not considered necessary to include this rule and it is noted that the subdivision chapter contains policies and matters of discretion for appropriately managing indigenous biodiversity when considering the subdivision process.
193. Forest and Bird request a new rule is added to make mineral extraction and quarrying prohibited in SNAs and discretionary if the site is identified

in accordance with APP5 of the WRPS. This is not agreed. There are rules and a policy framework in place to manage activities including mineral extraction and quarrying, and their effects on an SNA. Prohibited status is unnecessarily restrictive and does not align with the approach in the NPS-Indigenous Biodiversity.

APPENDIX 1 SUBMISSIONS TABLE

APPENDIX 2 AMENDMENTS TO THE ECOSYSTEMS AND INDIGENOUS BIODIVERSITY CHAPTER

Strikethrough is shown as an addition or
~~deletion~~

APPENDIX 3 SECTION 32AA EVALUATION

1. A section 32AA evaluation is only required for any changes that are proposed to the provisions of this plan since the original section 32 evaluation report for the proposal was completed. The section 32AA evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.