

Far North Proposed District Plan

5 August 2024

Hearing 4

Natural features and landscapes

Natural character

Coastal environment

Ecosystems and indigenous biodiversity



Te Kaunihera
o Te Hiku o Te Ika
Far North District Council

HE ARA TĀMATA
CREATING GREAT PLACES
Supporting our people

Introductions

- Jerome Wyeth, SLR Consulting
 - Coastal Environment s42A
 - Ecosystems and Indigenous Biodiversity s42A
- Ben Lee, SLR Consulting
 - Natural Features and Landscapes s42A
 - Natural Character s42A
- Melean Absolum, Melean Absolum Limited - Landscape Architects
 - *FNDC – Proposed District Plan: Coastal environment, Natural Character, & outstanding natural landscapes (Appendix 3 to s42A reports)*

Presentation outline

- Overview of topics
- Natural Character, Natural features and Landscapes, Coastal Environment
 - National direction
 - RPS direction
 - “Avoid” and “avoid significant” adverse effects
 - Key issues and recommendations
 - Outstanding issues in evidence

Questions

- Ecosystems and Indigenous Biodiversity
 - Key issues and recommendations
 - Outstanding issues in evidence

Questions

Overview of topics

- **Natural features and landscapes**

- NFL chapter
- SUB-R18
- Appendix 1: Mapping methods and criteria

- **Natural character**

- NATC chapter
- SUB-R19
- Appendix 1: Mapping methods and criteria
- Definitions

- **Coastal environment**

- CE chapter
- SUB-R20 & SUB-R20
- Appendix 1: Mapping methods and criteria
- Definitions

- **Ecosystems and indigenous biodiversity**

- IB chapter
- SUB-R17
- Definitions

PART 2 – DISTRICT-WIDE MATTERS

STRATEGIC DIRECTION

ENERGY, INFRASTRUCTURE, AND TRANSPORT

HAZARDS AND RISKS

HISTORICAL AND CULTURAL VALUES

NATURAL ENVIRONMENT VALUES

★ Ecosystems and indigenous biodiversity

★ Natural character

★ Natural features and landscapes

Public access

SUBDIVISION

GENERAL DISTRICT-WIDE MATTERS

Activities on the surface of water

★ Coastal environment

RMA section 6

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the **natural character of the coastal environment** (including the coastal marine area), **wetlands, and lakes and rivers and their margins**, and the protection of them from inappropriate subdivision, use, and development:*
- (b) the protection of **outstanding natural features and landscapes** from inappropriate subdivision, use, and development:*
- (c) the protection of areas of **significant indigenous vegetation and significant habitats of indigenous fauna**:*
- (d) ...*

Natural character

Natural features and landscapes

Coastal environment

National policy statements

New Zealand Coastal Policy Statement 2010

- Must avoid adverse effects on outstanding: natural character, landscapes and natural features
- Must avoid significant adverse effects on other natural character, landscapes and natural features

The National Policy Statement for Freshwater Management 2020

- District plan must manage urban development effects on freshwater health, ecosystems and receiving environment
- Describes “Natural form and character” as a freshwater value

National environmental standards

Resource Management (National Environmental Standards for Freshwater) Regulations 2020

- Overlap with topics - earthworks and vegetation clearance within 10m wetlands
- Plan rules can be more stringent (but not lenient)

Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017

- Now includes carbon forests (October 2023 change)
- Overlap with topics - afforestation, earthworks and indigenous vegetation clearance
- Plan rules can be more stringent to protect:
 - Natural character in coastal environment
 - Areas of significant indigenous vegetation and significant habitat of indigenous fauna
 - ONL and ONF
- Plan rules can be more lenient or stringent for afforestation

Policy 4.6.1:

	Coastal environment	Outside CE
Outstanding: <ul style="list-style-type: none"> landscapes natural features natural character 	Avoid adverse effects	Avoid significant adverse effects
Other: <ul style="list-style-type: none"> natural features natural landscapes natural character 	Avoid significant adverse effects	-
Natural character of freshwater	<i>Included in natural character generally</i>	Avoid significant adverse effects

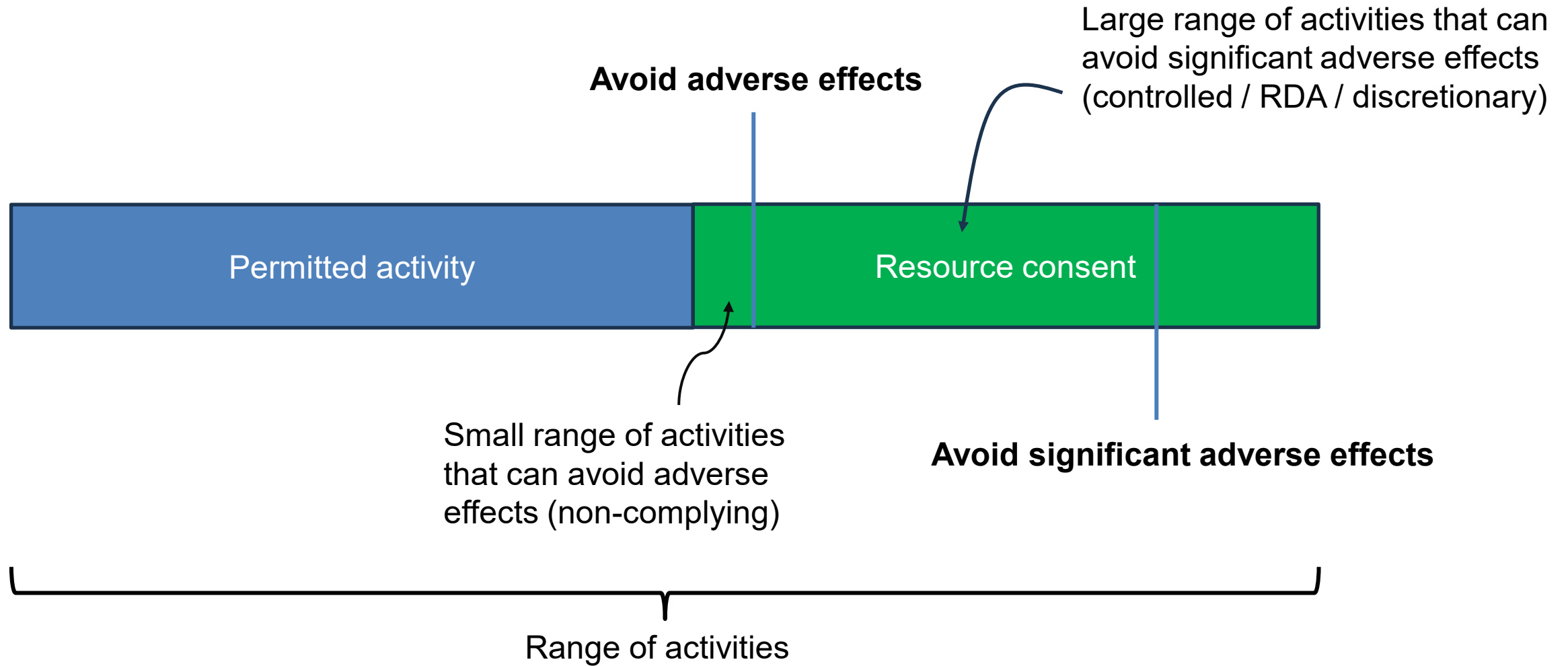
Method 4.6.3:

- (4) In implementing 4.6.1 district and regional plans shall:*
- (i) Permit the maintenance of existing authorised structures, buildings, accessways, infrastructure and production land; and*
 - (ii) Not unduly restrict existing authorised use of land or render land incapable of reasonable use.*

Applying 'avoid adverse effects' to rules

- Activities in ONC, ONL and ONF in Coastal Environment:
 - Should only be permitted activities if adverse effects avoided
 - A (unreasonably) strict application would be to have no permitted activities
 - Additional permitted activities - adopted judgement approach based on likelihood of adverse effects arising , additional weighting for activities with supporting policies and/or critical for health & safety
 - If not permitted then (very) high likelihood of adverse effects not being avoided (i.e. policy not being met) – therefore non-complying
- Contrast with activities where the bar is 'avoid significant adverse effects' – activities not permitted will still in many cases meet the bar – therefore controlled /restricted discretionary / discretionary.

Avoid vs avoid significant



Recommendations – common issues - obs and pols

Objectives and policies	Recommendations
Alignment of objectives with higher documents	Refine to preserve and/or protect from inappropriate land use and development. Better aligns with RPS and section 6.
Referencing characteristics/qualities/values	Consistent use of “...characteristics, qualities and values...”. Covers the field (various combinations used in higher documents and worksheets).
Enabling use and development of Māori Purpose zoned land and Treaty Settlement land	Rewording to remove conflicts with the ‘avoid’ policies and recognise adverse effects (on relevant matters) may be acceptable to support wellbeing of tangata whenua.
Prohibiting land use and subdivision that would destruct characteristics/qualities	Delete. Wording didn’t reflect higher document direction, conflicted with ‘avoid adverse effects’ direction, and prohibited rules can point to ‘avoid adverse effects’ policy

Recommendations – common issues - rules

Rules	Recommendations
NES conflict	Add notes exempting application of earthworks and vegetation clearance rules conflicting with NES-F and NES-CF.
Activity status for buildings on approved building platforms with landscape assessment	Controlled activity. Landscapes effects previously considered, development already anticipated so discretionary or non-complying activity status too stringent, some fine tuning to be considered
Activity status for permitted activity non-compliance	<p>Non-complying – Coastal environment: ONL, ONF, ONC, (adverse effects to be avoided)</p> <p>Discretionary - HNC for buildings and structures in coastal environment (avoid significant adverse effects, HNC discrete areas).</p> <p>Restricted discretionary – Other coastal environment, ONL & ONF outside coastal environment, freshwater margins (avoid significant adverse effects and focuses on effects of concern).</p>

Recommendations – common issues - rules

Rules	Recommendations
Repair or maintenance rules	Delete. Rules don't achieve what was intended and not necessary to ensure maintenance & repair is like for like.
Permitted earthworks and vegetation clearance activities	Many requests to add to the list. Agreed to those with low likelihood of adverse effects threshold being exceeded (e.g. new fence for stock exclusion) + additional weighting for activities with supporting policies and critical for health & safety.
Plantation forest activity	Amend so only afforestation only (i.e. new commercial plantation forest) will be a discretionary or non-complying activity (not all plantation forestry activity.)

Recommendations – common issues - rules

Rules	Recommendations
Earthworks and vegetation clearance permitted area timeframes	MAL recommended area thresholds - 10 yrs vs 1 yr. Balance of allowing flexibility (longer period) vs ease of proving (non) compliance (shorter period). Rule of thumb – 10 yrs if small area threshold (vegetation clearance), 1 yr for larger area (earthworks).
Height and area thresholds	Addressed later in the presentation
Colour standards	Replacing the Resene colour reference with a generic colour palette to be included in a new appendix to the plan. Only applying to new buildings
Subdivision within overlays	Amend so only applies to the creation of additional allotments within the overlay.

Mapping methodology and approach to requests

Source of overlay mapping

- The CE, ONL, ONC and HNC overlays were all identified through the Northland Mapping Project and are included in the NRPS.
- RMA requires DP to "give effect to" the RPS, so this is the starting point.
- RPS enables refinement of mapped areas in accordance with assessment methodology referred to in the RPS Appendix 1.

Understanding Overlay Mapping

- Careful assessment of overlay area with PDP and Google aerial photography.
- Google Streetview to assist in understanding aerial photography.
- Site visit to confirm situation, as necessary.
- Some small mis-match to be expected with overlaying different data sets.

Mapping methodology and approach to requests

Response to requests for changes to mapped overlays

- Consideration of assessment criteria in Appendix 1.
- Important differences between ONLs and identified Natural Character areas.
- Buildings, gardens, lawns etc are unlikely to be found in ONCs where the emphasis is natural, particularly indigenous vegetation.
- Buildings, gardens, lawns etc may be found scattered within ONLs, where the scale of the landscape is such that these elements do not detract from the overall character, as recorded in the Appendix 1 worksheets.
- There are fewer requests to remove the CE from individual properties, than to adjust the other three overlays.

Height and area thresholds

PDP Approach

- The notified plan applies different height and coverage controls to different places, depending on the zoning of the location, the type of building being proposed and the presence or absence of any of the four overlays ONL, CE, ONC or HNC. From my review of the PDP maps, there are 14 possible scenarios of zone and overlay mix.
- Despite this complexity, the PDP attempts to make the two controls as simple as possible.
- From a landscape perspective, the introduction of new buildings is more likely to cause adverse effects if it's in one of the overlays, rather than not and if it's in a rural area than an urban zone.
- Also important is the type of building. Dwellings tend to be more complicated in design and to create a domesticated landscape around them, when compared with other building types.

Height and area thresholds

Response to submissions

- Some adjustment to both the permitted site coverage rules and maximum building height standards is being proposed.
- The natural character values of a number of the District's coastal settlements has already been impacted by existing building development. In these situations, the maximum building height standards and site coverage rules are proposed to be relaxed for non-residential zoned land.
- In six of the larger coastal settlements it is proposed that the underlying zone permitted height limits will prevail for non-residential areas.
- In other overlays, eg ONL, non-residential building footprints increased to 50m² in the CE and 100m² outside the CE.

Natural features and landscapes – issues and recommendations

NFL-P4

- Broaden from farming to recognising all existing activities form part of ONL and ONF and allow activities to continue without undue restriction
- Reflects RPS direction (Method 4.6.3)

NFL – R6: Farming

- New farming = discretionary outside CE, non-complying in CE
- Recommend deleting
- Reflects recommended change to NFL-P4
- S10, RMA – existing use right BUT not if there's a change in character, intensity or scale of the farming activity
- Very low risk of new farming activity having undue adverse effects on ONL and ONF

Natural character – issues and recommendations

Lakes

- Notified definition includes all lakes (including man-made) of all sizes
- Need to balance preserving natural character values while not unduly restricting development
- Recommend excluding:
 - lakes <1ha
 - artificial lakes used for attenuating stormwater
 - wastewater treatment ponds (municipal and farms)
- Water supply dams – some have natural character values. Not clear how to differentiate between those with and without notable natural character values.

Coastal environment – issues and recommendations

Issues in submissions	Recommendations
<p>Approach to urban areas:</p> <ul style="list-style-type: none"> • Overly restrictive • Too blanket, does not recognise more built-up urban areas • Does not provide for all urban zones (e.g. Māori Purpose – Urban) 	<ul style="list-style-type: none"> • CE-O3 and CE-P5: Amend so not focused on protecting status quo, recognise that some change in character may be acceptable in urban areas to provide for well-being • CE-R1 and CE-S1: Amend to take a more nuanced approach and relying on underlying zoning thresholds for building size and height in six more built-up urban settlements (for certain zones) • Remove reference to “urban” zone definition
<p>Policy direction for farming activities</p>	<ul style="list-style-type: none"> • Amend to avoid potential conflict with ‘avoid’ policies, recognise that existing farming activities form part of coastal environment and allow these activities to continue without undue restriction
<p>Rules outside urban areas are too restrictive</p>	<ul style="list-style-type: none"> • Refine thresholds based on the values of the coastal environment overlay, refine standard to restrict buildings for residential activity

Outstanding issues in evidence

- Section 42A report recommendations broadly supported in evidence
- Remaining key issues in contention:
 - Zone specific concerns / requests (FNHL: Opuia, Waitangi Limited: Waitangi Treaty grounds, Cavalli Properties Ltd: Matauri Bay)
 - Management of vehicles on Puheke beach (Lucklaw Farm Limited)
 - Refinement of controlled activity rule for buildings on approved building platforms
 - Non-complying vs discretionary / RDA activity status in ONC, ONL and ONF
 - ONL mapping methodology (Omarino et al).
 - Relationship with Infrastructure chapter obs & pols and rules for upgrading network utilities
 - Additional exempt earthworks and vegetation clearance activities
 - John Andrew Riddell – various requests
 - Colour and reflectivity standards
 - MHWS setbacks – additional exemptions
 - The reference to “*minimum necessary*”

Questions

Ecosystems and Indigenous Biodiversity

Indigenous Biodiversity – Key issues in submissions

- Highly controversial topic
- 700 submission points, 1,468 further submissions
- Submissions generally oppose the chapter (356 points in opposition), but for different reasons
- A range of relief sought, but three key themes:
 - Approach to give effect to higher order direction, including the NPS-IB and RPS
 - The approach to identifying, mapping and protecting “Significant Natural Areas”
 - Requests for the provisions to be more stringent v more permissive
- Other more specific themes:
 - Recognising the role of tangata whenua as kaitiaki/restrictions on Māori land
 - Controls on dogs/pests
 - Indigenous vegetation clearance thresholds/exemptions

Key Issue 1 – Giving effect to the NPS-IB

Issues:

- NPS-IB came into effect August 2023, over a year after PDP notified
- Local authorities must give effect to the NPS-IB “*as soon as reasonably practicable*”
- RMA Amendment Bill proposes to suspend/pause SNA mapping for 3 years, but does not affect local authorities core RMA functions in relation to indigenous biodiversity
- Scope in submissions to give effect to NPS-IB, but it is not practicable or appropriate to give effect to many of the NPS-IB provisions (including those relating to SNA mapping and protection)

Recommendations:

- Do not give effect to the NPS-IB provisions relating to SNAs – this requires a dedicated programme of work and a future plan change process
- Do not give effect to NPS-IB provisions that require further engagement and/or technical assessments
- Give effect to certain NPS-IB provisions that are more general in nature (e.g. precautionary approach, promoting restoration of indigenous biodiversity,)

Key Issue 2 – SNA mapping and protection

Issues:

- Draft SNA maps withdrawn from the draft plan – submitters generally opposed to the voluntary/ad hoc approach to SNA mapping notified in PDP
- Withdrawing maps is contrary to section 6(c) and voluntary approach will not be effective
- Concern Council is passing on responsibility of assessing and mapping SNAs to landowners
- Ecological assessment puts onus on landowners to prove their vegetation not a SNA and creates uncertainty in application of SNA rules
- Risk of rework/inconsistencies from an ad hoc approach to SNA assessment/mapping

Recommendations:

- Replace references to SNAs with section 6(c) wording, amend definition
- Delete direction relating to SNA mapping and SCHED-4
- Align effects management policies with the RPS (until future NPS-IB plan change)

Indigenous Biodiversity – Other key issues and recommendations

Issues raised	Recommendations
Need to better give effect to RPS Policy 4.4.1	IB-P2 and IB-P3 amended to better align with RPS
Recognition of tangata whenua as kaitiaki and potential restrictions on Māori land	New IB-P1 to give effect to NPS-IB, retain IB-P5(d), amendments to IB-R2 to provide more flexibility for residential units within MPZ and TSO land
Concerns about banning/restrictions on dogs	Amendments to IB-P9 to clarify how restrictions should be applied
More recognition of other mechanisms to protect and restore indigenous biodiversity	New policy to provide clearer link to protection of significant biodiversity through environmental benefit subdivision
Request to refine and expand list of activities where clearance is permitted under IB-R1	Retain with minor amendments and to enable clearance associated with the upgrade of infrastructure
Indigenous clearance thresholds in IB-R4	Refine to apply per calendar year and reduce the permitted threshold
IB-R5 applying to plantation forestry	Delete – rely on NES-CF and give effect to NPS-IB through future plan change

Indigenous Biodiversity – Outstanding issues in evidence

- The section 42A report recommendations broadly supported by submitters who have provided pre-circulated evidence
- Remaining issues in contention appear to relate to:
 - How infrastructure is referenced in the objectives, policies and rules within overlay chapters v rely on the Infrastructure chapter (Transpower and Top Energy)
 - Refinements to the policies
 - Need for a partnership approach with tangata whenua
 - IB-P7 and control of pests (recommended definition may be too limiting)
 - The reference to “*minimum necessary*” in IB-R1
 - Exemptions for activities to the permitted activity thresholds in IB-R1
 - The indigenous vegetation clearance thresholds

Questions