



SECTION 42A REPORT

Natural Features and Landscapes

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1 List of Abbreviations

List of Submitters and Abbreviations of Submitters' Names

Submitter Number	Abbreviation	Full Name of Submitter
S282	Telco Companies	Chorus New Zealand Limited, Spark New Zealand Trading Limited, Spark TowerCo Limited, Vodafone New Zealand Limited
S425	Twin Coast Cycle Trail	Pou Herenga Tai Twin Coast Cycle Trail Charitable Trust
S364	DOC	Director-General of Conservation (Department of Conservation)
S368	FNDC	Far North District Council
S246	FNDC - Infrastructure Planning	Far North District Council, Infrastructure and Asset Management - Infrastructure Planning
S512	FENZ	Fire and Emergency New Zealand
S409	HNZPT	Heritage New Zealand Pouhere Taonga
S159	Horticulture NZ	Horticulture New Zealand
S331	MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
S359	NRC	Northland Regional Council
S184	NTA	Northland Transportation Alliance
S511	Forest & Bird	Royal Forest and Bird Protection Society of New Zealand
S517	Spark & Vodafone	Spark New Zealand Trading Limited and Vodafone New Zealand Limited
S521	VKK	Vision Kerikeri (Vision for Kerikeri and Environs, VKK)
S356	NZTA	Waka Kotahi NZ Transport Agency

Note: This table contains a list of submitters relevant to this topic which are abbreviated and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.



Other abbreviations

Abbreviation	Full Term
CI 16	Clause 16(2), Schedule 1, RMA.
FNDC	Far North District Council
NES-CF	National Environmental Standards for Commercial Forestry 2017
NES-F	National Environmental Standards for Freshwater 2020
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-IB	National Policy Statement for Indigenous Biodiversity 2023
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement



2 Executive summary

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The NFL chapter is located in the Natural Environment Values section of the PDP.
2. There are 381 original submission points on the Natural Features and Landscapes topic. This includes 45 original submission points indicating general support for the provisions to be retained as notified, 74 submission points indicating support in part, with changes requested, 1 submission point was neutral whilst 228 submission points opposed the provisions¹. There were also 1,260 further submission points
3. The submissions can largely be categorised into several key themes:
 - a. There were many submitters concerned that the Natural features and landscapes chapter are overly restrictive and sought changes to the provisions (particularly the rules) to make new activities of interest to them a permitted activity, and to lessen the consent activity status for activities not complying with permitted activities.
 - b. A group of submitters requested amendments to ensure activities previously authorised by consents and/or existing activities (such as farming) are not unduly constrained.
 - c. There were requests to ensure the provisions appropriately give effect to higher planning documents and Section 6(b), RMA.
 - d. Various landowners requesting changes to mapped ONL and ONF.
4. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
 - a. Amendments to the 'Overview' section, including removing a sentence suggesting that landscapes and features have been subject to minimal modification, and adding a sentence to acknowledge the role of landowners in preserving natural landscapes and features.

¹ 33 submission points were recorded as not stating a position.



- b. Replacing the two objectives with a single objective.
- c. Changes to policies to make it clear that the focus is to manage effects on the characteristics, and qualities and values that make ONL and ONF outstanding.
- d. Broadening NFL-P4 to recognise all lawfully established activities (not just farming activities)
- e. Improving the wording on NFL-P6 to make to clearer how land use and subdivision within Māori Purpose zoned land and Treaty Settlement land is enabled
- f. Deleting NFL-P7 and amending NFL-P8 to make clearer how the listed matters of concern for ONL and ONF are considered.
- g. Various amendments to improve the 'Notes' section.
- h. Significant changes to NFL-R1, NFL-R2, NFL-R3 and the associated standards to make less onerous while ensuring the effects on ONL and ONF are appropriately managed.
- i. Amending NFL-R5 so it only applies to commercial forestry afforestation (and not plantation forestry activity).
- j. Deleting NFL-R6 which requires resource consent for farming activity in ONL and ONF.
- k. Amending SUB-R18 so it only applies if additional allotments are created within and ONL or ONF.

3 Introduction

3.1 Author and qualifications

- 6. My full name is Benjamin (Ben) Michael Lee and I am the Northland Planning Manager with SLR Consulting.
- 7. I hold the qualification of Master of Science (Environmental Science) from the University of Auckland with First Class Honours.
- 8. I have over 20 years of experience in planning and resource management. Prior to joining SLR consulting in May 2023, I was the Policy and Planning manager at the Northland Regional Council. At the Northland Regional Council, I was involved in various Schedule 1 processes including Plan Change 4 Aquaculture) to the Regional Coastal Plan for Northland, the Regional Policy Statement for Northland and the Northland Regional Plan. I have considerable experience in all facets of plan development.

3.2 Code of Conduct



9. I confirm that I have read the Code of Conduct for Expert Witnesses 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.
10. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

3.3 Expert Advice

11. In preparing this report I rely on expert advice of Melean Absolum, landscape architect. I refer this advice as the "MAL report". The scope of this evidence relates to the evaluation of submissions received on the NFL chapter rules and ONL overlays.
12. The expert advice is provided as Appendix 3 to this Report

4 Scope/Purpose of Report

13. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
 - a. Assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
 - b. Provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
14. This report responds to submissions on:
 - a. The NFL chapter (Part 2, District Wide Matters);
 - b. The ONL and ONF overlays; and
 - c. Rule SUB-18 'Subdivision of a site within an Outstanding Natural Landscape and Outstanding Natural Feature'.

5 Statutory Requirements

5.1 Statutory documents

15. I note that the NFL Section 32 report provides a detailed record of the relevant statutory considerations applicable to the NFL chapter.
16. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.



17. However, it is important to highlight the higher order documents which have been subject to change since notification of the Proposed Plan which must be given effect to, which is relevant to the NFL chapter.

5.1.1 Resource Management Act

18. The Government, elected in October 2023, repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22 of December 2023 and reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The Government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

5.1.2 National Policy Statements

5.1.2.1 National Policy Statements Gazetted since Notification of the PDP

19. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides a summary of the National Policy Statements, relevant to the Natural Character chapter that have been gazetted since notification of the PDP. As District Plans must be "prepared in accordance with" and "give effect to" a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.
20. The National Policy Statement for Indigenous Biodiversity (NPS-IB) came into effect on 4 August 2023, after the PDP was notified for public submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity from the commencement date of the NPS-IB. The objective is supported by 17 policies. Part 3 of the NPS-IB sets out what must be done to give effect to the NPS-IB objective and policies. I note that the NPS-IB will be primarily given effect to through the Ecosystems and Indigenous Biodiversity chapter, which is also being considered in Hearing 4. The presence, extent and integrity of indigenous biodiversity is also relevant to the protection and restoration of ONL and ONF, which I consider further in the analysis of provisions below.
21. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022. The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including



restrictions on the urban rezoning, rural lifestyle rezoning, subdivision and inappropriate development on highly productive land. I note that the NPS-HPL will be primarily given effect to through the suite of Rural Zones in the PDP and the Subdivision chapter, which are being considered in Hearing 9 and 17 respectively. The NPS-HPL is not considered further in this report.

5.1.3 National Environmental Standards

22. The following national environmental standards are relevant to Natural Features and Landscapes chapter as there are activities addressed in the current PDP rule or proposed by submitters that are also addressed by these national environmental standards:
 - a. The Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF).
 - b. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).
23. The NES-CF, which amend the NES-PF, came into effect on 3 November 2023. In addition to regulating the effects of plantation forestry, the NES-CF now regulates “exotic continuous-cover forestry”, which is commercial forestry not intended to be harvested (i.e. carbon forestry). As such, the NES-CF now applies to all types of forestry deliberately established for commercial purposes (permanent indigenous forestry is not regulated under the NES-CF). In addition to bringing exotic continuous-cover forestry within scope, the changes in the NES-CF:
 - a. Allow plan rules to be more stringent or lenient to manage afforestation.
 - b. Introduce a range of operational changes, including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees.
24. The NES-CF specifically allows a PDP rule to be more stringent where the rule protects outstanding natural features and landscapes from inappropriate use and development².
25. The NES-F came into effect on 3 September 2020. The regulations set out requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. There is potential for overlap between the PDP rules and the NES-F regulations for earthworks and vegetation clearance

² Regulation 6(2), NES-CF.



next to wetlands. A rule in the PDP can be more stringent than the NES-F but cannot be more lenient.

5.1.4 National Planning Standards

26. The National Planning Standards outline the structure and format of district plans, which the PDP must give effect to. The District-Wide Matters Standard in the National Planning Standards requires provisions for the following matters are addressed in the NFL chapter:
 - a. *identification of features and landscapes that are outstanding, significant or otherwise valued*
 - b. *provisions to protect and manage outstanding natural features and landscapes*
 - c. *provisions to manage other valued features and landscapes.*
27. The NFL chapter provisions, both proposed and recommended in this report, follow this guidance.

5.1.5 Treaty Settlements

28. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

5.1.6 Iwi Management Plans – Update

29. Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.
30. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, two have been revised since notification of the PDP:
 - a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
 - b. Ahipara Takiwā Environmental Management Plan

Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan



31. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022.
32. The Ngāti Hine Environmental Management Plan has various provisions for natural features and landscapes:

2.2 WATER AND LAND – WAI ME TE WHENUA

Policies

9. *The recording, mapping and surveying of Ngāti Hine landscapes to be managed by Ngāti Hine in conjunction with any external stakeholders, entities and groups and supported by Councils*
 10. *Implement appropriate provisions for Ngāti Hine historic and cultural landscapes, including the development and implementation of cultural landscape strategies.*
 12. *Our historic and cultural landscape is afforded high priority as other landscape values when being considered as part of any process under the Resource Management Act (RMA), and any ongoing amendments to this act and other relevant legislation.*
 13. *Monitoring of effects on historic and cultural landscapes within Ngāti Hine rohe is the responsibility of the ahi kaa and kaitiaki. This should be reflected in all relevant consent conditions. This function should be formally transferred to Ngāti Hine as tangata whenua and Rangatira. Ahipara Takiwā Environmental Management Plan*
33. The Ahipara Takiwā Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with Council in 2023, after notification of the PDP in July 2022.
 34. The Ahipara Takiwā Environmental Management Plan includes several natural features and landscapes specific provisions:

3.7.5 Policies relating to Biodiversity

TWNATP15. To approach the restoration of indigenous biodiversity in the takiwā based on the following principles: (a) Restoration of indigenous biodiversity is about restoring original and natural landscapes, and therefore the mauri of the land; and (b) Restoration of indigenous biodiversity is about restoring the relationship of Ngā Marae o Ahipara to important places and resources; including planning for customary use.



3.9 Papatūānuku / Land and Landscapes

Whakamaoritia - Policies relating to Whenua

PP21. Discourage subdivisions and buildings in culturally significant and highly visible landscapes or which would have significant adverse effects on biodiversity.

3.11 Ōpapa / Minerals

3.11.4 Kaupapa Whakahaere / Policies relating to Minerals.

OP2: Discourage mining and quarrying activities within landscapes of cultural significance or where significant sites such as wāhi tapu might be affected.

35. Changes cannot be made to the PDP directly in response to these updated hapū/iwi management planning documents. However, they have been taken into account where relevant in considering submissions and making recommendations in response to the submissions.

5.2 Section 32AA evaluation

36. This report used 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where applicable, the recommended decisions have been evaluated using Section 32AA of the RMA.
37. The s32AA further evaluation for each key issue considers:
- a. Whether the amended objectives are the best way to achieve the purpose of the RMA.
 - b. The reasonably practicable options for achieving those objectives.
 - c. The environmental, social, economic and cultural benefits and costs of the amended provisions.
 - d. The efficiency and effectiveness of the provisions for achieving the objectives.
 - e. The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
38. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made.

5.3 Procedural matters



39. No correspondence or meetings with submitters needed to be undertaken and there are no procedural matters to consider for this hearing.

6 Consideration of submissions received

6.1 Overview of submissions received

40. There are 381 original submission points on the Natural Features and Landscapes topic. This includes 45 original submission points indicating general support for the provisions to be retained as notified, 74 submission points indicating support in part, with changes requested, 1 submission point was neutral whilst 228 submission points opposed the provisions³. There were also 1,260 further submission points
41. The main submissions on the Natural Features and Landscapes chapter are from:
- a. Central and local government, including Northland Regional Council (S359), Waka Kotahi (S356), and DOC (S364).
 - b. Non-governmental organisations, such as Forest & Bird (S511), Northland Fish and Game (S436), and Kapiro Conservation Trust (S442).
 - c. The primary production sector, including Federated Farmers (S421), Horticulture NZ (S159), Summit Forests (S148), and Manulife Forest Management (S160).
 - d. Māori organisations, such as Haititaimarangai Marae Kaitiaki Trust (S394), Te Rūnanga o Ngāti Rehia (S559), and Matauri Trustee Ltd. (S243).
 - e. Infrastructure providers, such as Top Energy (S483) and Twin Coast Cycle Trail (S425).
 - f. Residential associations, such as Mataka Residents Association (S230), as well as numerous individual submitters, private landowners and businesses seeking similar outcomes. For example, Setar Thirty Six Ltd. (S168), and Wendover Two Ltd. (S222).
42. The key issues identified in this report are set out below:
- a. Key Issue 1: General submissions
 - b. Key Issue 2: Mataka Station submissions

³ 33 submission points were recorded as not stating a position.



- c. Key Issue 3: Characteristics and qualities of ONL and ONF
 - d. Key Issue 4: Transpower request for exemptions
 - e. Key Issue 5: Overview
 - f. Key Issue 6: Objectives
 - g. Key Issue 7: Policies – General
 - h. Key Issue 8: NFL-P2
 - i. Key Issue 9: NFL-P3
 - j. Key Issue 10: NFL-P4
 - k. Key Issue 11: NFL-P5
 - l. Key Issue 12: NFL-P6
 - m. Key Issue 13: NFL-P7
 - n. Key Issue 14: NFL-P8
 - o. Key Issue 15: Rules – General
 - p. Key Issue 16: Notes
 - q. Key Issue 17: NFL-R1
 - r. Key Issue 18: NFL-R2
 - s. Key Issue 19: NFL-R3
 - t. Key Issue 20: NFL-R5
 - u. Key Issue 21: NFL-R6
 - v. Key Issue 22: NFL-R7
 - w. Key Issue 23: Standards
 - x. Key Issue 24: SUB-R18
 - y. Key Issue 25: ONL and ONF overlays
43. Submission points outside of the scope of the PDP are not addressed in this report.



44. Section 6.2 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues and provisions in the Natural Features and Landscapes chapter. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

6.2 Officer Recommendations

45. A copy of the recommended plan provisions for the Natural Features and Landscapes chapter is provided in:
- a. **Appendix 1.1: Recommended amendments to Natural Features and Landscapes chapter.**
 - b. **Appendix 1.2: Recommended amendments to Rule SUB-R18.**
46. A full list of submissions and further submissions on the Natural Features and Landscapes chapter is contained in **Appendix 2 – Recommended Decisions on Submissions** to this report.
47. A copy of the expert advice from MAL is provided in **Appendix 3 – MAL Landscape Report.**

6.2.1 Key Issue 1: General submissions

Overview

Provision(s)	Officer Recommendation(s)
General	No changes (except for changes referred to in other key issues)

Analysis of Submissions on Key Issue 1: General submissions

Matters raised in submissions

48. M J Winch (S67) generally supports the Natural Features and Landscape chapter NFL chapter provisions.
49. The Ipipiri Nature Conservancy Trust (S11.003) consider that their work will contribute to achieve objectives in the PDP but are concerned that overlays may make work more difficult and expensive for the Trust. The submitter requests amendment of the overlay provisions to allow the Trust to upgrade and improve camp site facilities, walking tracks and undertake restoration work on their land.



50. NRC (S359.041) and Tane's Tree Trust – Northland Totara Working Group (S157.003) raise general concerns relating to forestry. NRC consider that the plan should be amended to include controls on exotic carbon forestry within ONFL to protect the values of these resources and to manage nuisance such as shading, plant pest spread and fire risk. Tane's Tree Trust state that it is critical that sustainable indigenous forestry activities are not subject to unnecessary additional, costly and uncertain consenting processes. As such, Tane's Tree Trust request amendments to the PDP to allow harvests under the Ministry for Primary Industries' approved sustainable forest management plans as permitted activities in all ONLs.
51. Top Energy (S483.157) consider that it is unclear what the default activity status is for activities that are not specified and request that a 'catch-all' default activity status be included in each Chapter of the PDP.
52. Forest & Bird (S511.078) and Kapiro Conservation Trust (S442.097) highlight that the NFL chapter only deals with ONLs and ONFs outside the Coastal Environment. The submitter therefore considers that this chapter would be more appropriately identified as "**Outstanding Natural Features and Outstanding Landscapes.**"
53. Northland Fish & Game Council (S436.005) seek the insertion of provisions that provide for the building of maimai on wetlands or near a lake or river as a permitted activity. The size of maimai is already controlled by the Building Act 2004 (maximum floor size 10m²) and such structures are accepted around much of NZ as a permitted activity. Building and use of maimai is considered a fundamental part of duck hunting in New Zealand and managing this activity is a core function of Northland Fish & Game Council.

Analysis

54. In respect to the Ipiripi Nature Conservancy Trust submission point, the submitter has not provided any proposed wording changes. It appears that some of the rules (including my recommended changes in relation to other key issues below) may provide for some (potentially all) of the submitter's activities. The submitter may wish to review my recommended amendments to the NFL chapter in Appendix 1.1 to determine whether the provisions now meet their requirements and to recommend any further amendments if required through evidence.
55. In respect to NRC and Tane's Tree Trust – Northland Totara Working Group's submissions points, I am recommending changes to the rules relating to forestry activities under Key Issue 20: NFL – R5 below. I consider that these changes may satisfy their requested relief.
56. I do not recommend any changes in response to Top Energy's submission. In my opinion the 'How the plan works' section is clear about how the rules in the NFL chapter apply to other rules and activities not addressed in the



chapter. There is no need for a catch-all activity status. From the 'How the plan works' chapter:

Some of the Overlay chapters only include rules for certain types of activities (e.g. natural character, natural features and landscapes or coastal environment). If your proposed activity is within one of these overlays, but there are no overlay rules that are applicable to your activity, then your activity can be treated as a permitted activity under the Overlay Chapter unless stated otherwise. Resource consent may still be required under other Part 2: District-Wide Matters chapters and/or Part 3: Area-Specific chapters (including the underlying zone).

- 57. I do not agree with Forest & Bird and Kapiro Conservation Trust's proposed change to the name of the chapter. The chapter name (Natural Features and Landscapes) is prescribed by the District Plan Structure Standard in the National Planning Standards.
- 58. In respect to Northland Fish & Game Council's request regarding providing for maimai (10m² or less) as a permitted activity, the recommended changes to NFL-R1 and NFL-R3 will mean the construction and maintenance of maimai, and associated earthworks and vegetation clearance, will be a permitted activity. Refer Key Issue 17: NFL-R1 and Key Issue: 19 NFL-R3.

Recommendation

- 59. For the above the reasons, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and no changes are made in response to the submissions (except for changes recommended under other key issues as referred above).

Section 32AA evaluation

- 60. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

6.2.2 Key Issue 2: Mataka Station submissions

Overview

Provision(s)	Officer Recommendation(s)
Seeking a special purpose zone for the "Mataka Precinct Station"	Addressed in the rezoning topic (Hearing 19)

Analysis of Submissions on Key Issue 2: Mataka Station submissions

Matters raised in submissions



61. Various submitters associated with the Mataka Residents Association are seeking a special purpose zone for the “Mataka Precinct Station”. This includes for example, Tryphena Trustees (S226.006), Jayesh Govind and Others (S228.006) and Laurie Pearson (S229.006). These submitters are also seeking consequential amendments across the NFL chapter (and other PDP chapters) to:

"recognise the proposed Mataka Station Precinct provisions and the existing resource consent which provides for dwellings and buildings/structures on the Lots within the Mataka Scheme as well as the continuation of farming activities."

Analysis

62. The merits of the Mataka Precinct Station SPZ will be considered by the reporting officer in the rezoning topic (Hearing 19), currently scheduled for August 2025. However, regardless of whether the request for a SPZ is accepted, accepted in part or rejected, in my opinion it is not necessary or appropriate for the NFL chapter to specifically recognise the Mataka Station in any way. The NFL chapter is a district-wide chapter and does not specifically recognise or address zone specific issues. Further, I note that the provisions of the NFL chapter will not affect existing resource consents for activities at Mataka Station.

Recommendation

63. I make no recommendations in relation to the request for a special purpose zone (which will be addressed in Hearing 19).
64. I recommend no changes in response to the general request to recognise the proposed Mataka Station Precinct in the NFL chapter provisions.
65. The submitters’ requests for specific changes to provisions addressed under the relevant key issues sections below.

Section 32AA evaluation

66. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

6.2.3 Key Issue 3: Characteristics and qualities of ONL and ONF

Overview

Provision(s)	Officer Recommendation(s)
Various objectives and policies	Amend wording in relevant objectives and policies: <i>...the characteristics, and qualities, and values that contribute to making ONL and ONF outstanding...</i>



Analysis of Submissions on Key Issue 3: Characteristics and qualities of ONL and ONF

Matters raised in submissions

67. Six submitters, including Bentzen Farm (S167.031 and S167.032) and Wendover Two (S222.034 and S222.035) requested the words "...characteristics and qualities of ONL and ONF...", which are used in objective NFL-02 and many of the policies, be amended to "...the *identified characteristics and qualities values* of ONL and ONF...". The rationale for the proposed change is:

By its nature, land use and subdivision cannot be 'consistent with' the characteristics and qualities of an ONL or ONF: those being defined by a current state. It can however not compromise their characteristics and values as have been identified by the higher order planning documents.

The NRC Landscape Assessment Work Sheets refer to "values" not qualities. In order for this objective to be the most appropriate way to achieve the requirements of the RMA and give effect to the NPS (ie allow a measurable assessment), it should use the same language as the Landscape Assessment methodology. "Identified" characteristics has been correctly used in policy NFL-P5, allowing a more measurable test of compliance with the policy. This should be consistently used thoroughly this objectives and policy set.

Analysis

68. The issue is the use of the terms 'characteristics', 'qualities' and 'values' in the various NFL chapter provisions. It is also an issue with similar provisions in the Natural Character chapter and Coastal Environment Chapter provisions. I have discussed the issue with the Coastal Environment chapter reporting officer (I am the reporting officer for the Natural Character chapter) in undertaking the analysis and preparing recommendations to ensure a consistent approach.
69. Firstly, I note that the terms 'characteristics', 'qualities' and 'values' are used in various ways (i.e. there is not consistent approach) in:
- a. The ONF mapping methodology and Schedule 6 – Schedule of Outstanding Natural Features (refers only to 'values')



- b. The ONL mapping methodology and Schedule 5 - Schedule of Outstanding Natural Landscapes⁴ (refers to 'characteristics', 'qualities' and 'values')
 - c. The APP1 criteria for ONL (refers to 'values' and 'qualities')
 - d. The APP1 criteria for ONF (no reference to 'characteristics', 'qualities' or 'values')
70. Secondly, it is useful, in my opinion, to consider the wording of the higher order provisions that the NFL chapter gives effect to, as well as comparable planning documents. These are summarised below.

Provision	Wording (bold added for emphasis)
NZCPS, Objective 2	"...recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
RPS, objective 3.14	"... The qualities and characteristics that make up outstanding natural features and outstanding natural landscapes..."
RPS, policy 4.6.1	"... the characteristics and qualities which make up the outstanding values of areas of outstanding natural character, outstanding natural features and outstanding natural landscapes"
Whangarei District Plan, policy NFL-P3	"...on the characteristics and qualities of Outstanding Natural Features and Outstanding Natural Landscapes..."
Proposed Regional Plan for Northland, Policy D.2.17.	"...on the characteristics, qualities and values that ...make the Natural Character or landscape outstanding"

⁴ Including worksheets.



71. Unhelpfully, the wording used across the planning documents is inconsistent.
72. It is clear from the ONL and ONF mapping methodologies and worksheets, and the higher policy direction, that 'characteristics', 'qualities' and 'values' are all important elements for ONL and ONF and they should all be referenced in the relevant provisions. However, what is not clear is the relationship between the terms - e.g. whether 'characteristics' and 'qualities' are the elements that make up values, or whether they are three separate elements.
73. Consequently, in my opinion, the best approach is to refer generically to "*characteristics, qualities and values.*"
74. The other aspect to consider is how characteristics / qualities / values are referred to in the provisions. In my opinion, the focus should be on the characteristics / qualities / values that make ONL and ONF outstanding – not the characteristics / qualities / values that do not contribute to the ONL's or ONF's outstanding status. This is consistent with the approach used in the RPS policy 4.6.1.
- a. On that basis, my view is that any provision in the NFL chapter that uses the words "characteristics and qualities" be amended as follows (or words to similar effect):
- ...the characteristics, ~~and~~ qualities, and values that make the ONL and ONF outstanding...*
75. The Coastal Environment chapter topic reporting officer is adopting the same recommendation for similar provisions in that chapter, and I have recommended the same in the Natural Character chapter s42A report.
76. The final aspect of the submissions outlined above is the addition of the word "identified" before "characteristics / qualities / values". The submitters argue it allows a more measurable test of compliance with the policy and is consistent with NFL-P5 ("*...not compromise any identified characteristics and qualities.*").
77. Presumably the submitters intent is "identified" would mean those characteristics / qualities / values identified in the ONF and ONL assessment sheets.
78. In my view, the ONF and ONL maps and assessment sheets are not 'the last word' on ONF and ONL. If a resource consent application assesses a natural feature or landscape as being 'outstanding' and this is supported by suitable technical assessments using the relevant methodology and criteria, then decisions can be lawfully made based on these assessments regardless of whether the landscape or feature is mapped in the district plan and/or the associated assessment sheet as being an ONL or ONF.



79. Also, while the assessment sheets have identified characteristics / qualities / values that contribute to the feature or landscape being outstanding, the assessment sheets may not have captured all of them. It may be that, when assessed at a site-specific resource consent application level, other relevant characteristics / qualities / values are identified. These could include, for example, tangata whenua values not fully assessed through the Northland Mapping Project⁵.
80. Regardless, the word "identified" is redundant, because logically characteristics / qualities / values cannot be considered unless they are identified (something that is not identified cannot be considered), whether that be through the PDP maps, the assessment sheets or through a more detailed assessment as part of a resource consent process.
81. Consequently, my view is the word "*identified*" should be deleted from NFL-P5.

Recommendation

82. For the above reasons, I recommend accepting in part the six submitters, including Bentzen Farm (S167.031, 032) and Wendover Two (S222.034, 035), and:
 - a. Amending wording in applicable provisions as follows:
 - i. *...the characteristics, ~~and~~ qualities, ~~and~~ values that make ~~of~~ ONL and ONF outstanding...*
 - b. Deleting the word "*identified*" from NFL-P5.

Section 32AA evaluation

83. My recommendations to refer to "*characteristics, qualities and values*" of ONL and ONF throughout the relevant NFL chapter provisions are primarily to clarify intent and improve alignment with APP1, SCHED5 and SCHED6. Equally, my recommended amendments to refer to avoiding adverse effects on the characteristics, qualities and values that qualify a natural landscape or feature as 'outstanding' is consistent with the original policy intent. I also consider that the amendments provide more certainty and clarity on the adverse effects that need to be avoided, consistent with the direction in the NZCPS and RPS. Accordingly, I consider that my recommended amendments will achieve the relevant objectives in a more effective and efficient manner than the notified wording in terms of section 32AA of the RMA.

⁵ It has been recognised that the maps and assessment sheets do not fully account for tangata whenua values.



84. Deleting the word "*identified*" from NFL-P5 is a clarification, essentially deleting a redundant word and aligning the wording with other similar provisions. On this basis, no evaluation under Section 32AA is required.

6.2.4 Key Issue 4: Transpower request for exemptions

Overview

Provision(s)	Officer Recommendation(s)
NFL-O2, NFL-P2 and NFL-P3	No amendment

Analysis of Submissions on Key Issue 4: Transpower request for exemptions

Matters raised in submissions

85. Transpower (S454.090, S454.091, and S454.092) have requested the words "*subject to I-PX*" be added to NFL-O2, NFL-P2 and NFL-P3 so that that these provisions are subject to that policy in the infrastructure chapter. Transpower have also requested similar relief for various objectives and policies in other chapters. "*I-PX*" is a new policy requested by Transpower to be added to the Infrastructure chapter to recognise the national significance of the National Grid, consistent with the direction of the National Policy Statement for Electricity Transmission 2008 (NPS-ET).

Analysis

86. Rather than inserting the requested phrase into multiple provisions across the PDP, a better and more efficient approach, in my view, is to address the relationship of the policy (I-PX) with other PDP provisions in the proposed policy itself. This will enable that relationship to be dealt with once in the Infrastructure chapter rather than repeated throughout multiple chapters in the PDP.
87. This approach aligns with what I understand to be the intent of the relief sought by Transpower, namely to ensure that the Infrastructure chapter provides a "one-stop-stop" policy framework for the National Grid. The merits of this National Grid policy requested by Transpower, including the extent to which it prevails over other PDP policies, will be considered in Hearing 13 (Energy, Infrastructure and Transport).
88. In my opinion, there is generally no need to cross reference to other policies in the PDP because all relevant policies apply regardless where they sit within the PDP. If the "*subject to I-PX*" words were to be added, then this would also open the door for other similar policy references to be included and may create confusion about the applicability of policies where there is no cross reference.



Recommendation

89. For the above reasons, I recommend Transpower’s request to add the words “*subject to I-PX*” to NFL-O2, NFL-P2 and NFL-P3 is rejected and the relief sought by Transpower is considered through the Infrastructure topic.

Section 32AA evaluation

90. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

6.2.5 Key Issue 5: Overview

Overview

Provision(s)	Officer Recommendation(s)
Overview	Retain as notified, except: <ul style="list-style-type: none"> • Delete the sentence suggesting there has been minimal modification of natural landscapes and features • Add sentence recognising role of landowners in contributing to natural landscape and feature values.

Analysis of Submissions on Key Issue 5: Overview

Matters raised in submissions

91. Various submitters, including Setar Thirty Six (S168.033), The Shooting Box (S187.026) and others sought the deletion of the sentence in the Overview: *Modification of these places has been minimal largely due to their remote locations, historic heritage and in some cases challenging topography and geomorphology.* These submitters argue that large parts of the ONLs have been highly modified from their natural state by land uses, including historical settlement, burn-offs, logging, forestry and farming practices.
92. Federated Farmers (S421.150) sought additional text to the Overview to acknowledge the role that landowners have played and still play in the preservation of outstanding natural landscapes and features.
93. Forest & Bird (S511.079) and Kapiro Conservation Trust (S442.098) consider there is need to clarify that natural landscapes and features within the coastal environment which are not identified as ONL or ONF are addressed through provisions in the Coastal Environment Chapter. The submitter requests, for example, that the Overview is amended to clarify that the Coastal Environment chapter covers landscapes and natural features that are not outstanding.

Analysis



- 94. I agree with the submitters that the “*Modification of these places...*” sentence is not accurate. Much of Northland’s environment has been modified to some extent.
- 95. I agree with Federated Farmers that landowners play a critical role in preserving and enhancing natural landscape and feature values (such as leaving tracts of indigenous vegetation intact, pest control and planting) and the Overview should reflect this.
- 96. I do not agree with Forest & Bird and Kapiro Conservation Trust’s suggestion of amendments to clarify that the Coastal Environment chapter covers landscapes and natural features that are not outstanding. The Coastal Environment chapter does not include objectives, policies or rules for natural features and landscapes that are not outstanding.

Recommendation

- 97. For the above reasons I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and:

- a. The following sentence be deleted:

~~*Modification of these places has been minimal largely due to their remote locations, historic heritage and in some cases challenging topography and geomorphology.*~~

- b. The following be added as a standalone new 3rd paragraph:

Landowners play a critical role in the preservation of natural landscape and feature values – by retaining elements that contribute to those values (such as leaving large tracts of indigenous vegetation intact) and actively enhancing these elements (for example through pest control and native plantings).

Section 32AA evaluation

- 98. The recommended amendments are not subject s32AA as the Overview section does not include objectives or provisions. Sections 32 and 32AA apply only to the evaluation of objectives and provisions.

6.2.6 Key Issue 6: Objectives

Overview

Provision(s)	Officer Recommendation(s)
Objectives	NFL-O1 and NFL02 are deleted and replaced with a single objective.



Analysis of Submissions on Key Issue 6: Objectives

Matters raised in submissions

99. Russell Protection Society (S179.076) generally support the objectives of the NFL chapter as the overlays “*become very important in helping to define the boundaries of Russell and in safeguarding a suitable backdrop or canvas which to interpret and appreciate the historic township.*”
100. Twin Coast Cycle Trail (S425.033) request that the provisions of the NFL chapter are amended to ensure that maintenance, operation and upgrade of regionally significant infrastructure is provided for. The submitter considers that the provisions do not adequately provide for regionally significant infrastructure in accordance with the RPS.
101. Michael Winch (S67.005, 021) generally supports the PDP provisions in respect of protecting natural landscape values and seeks that the objectives are retained.
102. Federated Farmers (S421.151 and S421152) submit that NFL-O1 needs to be more aligned with section 6(b) of the Resource Management Act 1991. They request that the objective is amended to be consistent with the wording of section 6(b), which protects ONFs and ONLs from “*inappropriate subdivision, use and development*”. Further, Federated Farmers note that if NFL-O1 is amended, then there is no need to retain NFL-O2 and they seek that NFL-O2 is deleted.
103. Haititaimarangai Marae Kaitiaki Trust (S394.035) support NFL-O3 as it assists in giving effect to Section 6(e) of the RMA.
104. Various submitters (including Bentzen Farm limited (S167.031) and Wendover Two Limited S222.034) request amendments to NFL-O2 or for it to be replaced with: “*The identified characteristics and values of ONLs and ONFs are protected from inappropriate subdivision, use and development as an alternative to changes*”.

Analysis

105. In respect to the Twin Coast Cycle Trail submission (S425.033), the submitter does not propose any specific wording changes, therefore I am unable to assess this relatively broad request as it is unclear as to what amendments would satisfy the submitters concerns. However, I would note that the provision for infrastructure across the PDP is primarily addressed in the “Infrastructure” chapter. This chapter has a suite of objectives and policies, including some that recognise the benefits of infrastructure and the technical, operational and functional needs and constraints of infrastructure activities. The intent of the submitter’s request may already be captured in these objectives and policies.



106. I agree with Federated Farmers that the objectives need to better align with section 6(b) of the Resource Management Act 1991 (RMA).
107. Section 6(b), RMA reads:

"...the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development..."
108. The objectives as notified read as follows:

NFL-O1: ONL and ONF are identified and managed to ensure their long-term protection for current and future generations.

NFL-O2: Land use and subdivision in ONL and ONF is consistent with and does not compromise the characteristics and qualities of that landscape or feature.

NFL-O3: The ancestral relationships Tangata Whenua has with the land is recognised and provided for as a part of the characteristics and qualities of ONL and ONF.
109. Federated Farmers suggest NFL-O1 should be replaced with:

Outstanding natural features and landscapes that are important to the identity of the District are retained and protected from inappropriate subdivision, use and development.

(Or wording with similar intent).
110. Federated Farmers argue that if their proposed wording is adopted then there is no need for NFL-O2.
111. My concern with NFL-O1 and NFL-O2 is they both address the outcomes sought for ONL and ONF, but in different ways and not in using wording that accurately reflects section 6(b) of the RMA, the NZCPS or the RPS.
112. NFL-O1 refers to 'protection' of ONL and ONF, which my interpretation of means no, or only at most, negligible effects. While this may be appropriate for ONL and ONF in the coastal environment (where adverse effects are to be avoided), outside the coastal environment this wording is inconsistent with RPS Policy 4.6.1, which 'allows' adverse effects if they are not significant.
113. NFL-O2 introduces the concepts '*consistent with*' and '*does not compromise*', which in my opinion increase the potential for uncertainty and do not give effect to the NZCPS or RPS because:
- a. These concepts are not used in the RPS and NZCPS with respect to either ONL or ONF.



- b. It is not clear how these concepts relate to the overriding NZCPS and RPS requirements to avoid adverse effects on ONL and ONF in the coastal environment and avoid significant adverse effects on ONL and ONF outside the coastal environment. For example, it could be interpreted as allowing some degree of adverse effect – which is beyond no / negligible (avoiding) adverse effects but less than significant effects.
114. I recommend NFL-O1 and NFL-O2 be replaced with a single objective that reads:

ONF and ONL are protected from inappropriate land use and subdivision.

115. Note that my recommended wording refers to "land use and subdivision". This differs from the wording in the NZCPS and RPS which is "*subdivision, use and development*". I note that the PDP deliberately and consistently refers to "*land use and subdivision*" throughout the provisions. My understanding is that this relates to land use and subdivision being the types of proposals/resource consent applications that are assessed under the PDP. While "development" is not specifically referred to, I consider that "land use" is broad enough to capture "development". The definition of "use" in the RMA includes a range of development activities. I accept that "*subdivision, use and development*" is more consistent with the language in the NZCPS and RPS, and in some instances the RMA. However, I recommend that the relevant coastal environment provisions retain the reference to "*land use and subdivision*" for the reasons above and to ensure internal consistency in wording within the PDP.

Recommendation

116. For the above reasons, I recommend:
- a. the Federated Farmers submission is accepted in part; and
 - b. the Russell Protection Society, Michael Winch and Haititaimarangai Marae Kaitiaki Trust submissions are accepted in part to the extent the recommended amended wording protects ONL and ONF from inappropriate land use and development; and
 - c. the Twin Coast Cycle Trail submission is accepted in part to the extent the submitters concerns are already addressed in the Infrastructure chapter; and
 - d. the Bentzen Farm limited et al submissions are accepted in part; and
 - e. the following amendments are made to NFL-O1 and NFL-O2:



NFL-O1: ONF and ONL are protected from inappropriate land use and subdivision.

~~ONL and ONF are identified and managed to ensure their long-term protection for current and future generations.~~

~~NFL-O2: Land use and subdivision in ONL and ONF is consistent with and does not compromise the characteristics and qualities of that landscape or feature.~~

Section 32AA evaluation

117. The recommended amendments are more appropriate in achieving the purpose of the RMA, reflecting s6(b) RMA and giving effect to the RPS for the reasons set out in my analysis above when compared to the notified PDP wording.

6.2.7 Key Issue 7: Policies - General

Overview

Provision(s)	Officer Recommendation(s)
Policies	Add the following clause to NFL-P8: <i>the visibility of impacts viewed from public places; and</i>

Analysis of Submissions on Key Issue 7: Policies - General

Matters raised in submissions

118. Russell Protection Society (S179.077) support the policies of the NFL chapter as they play an important role in helping to define and protect Russell. They seek that the policies are retained. Michael Winch (S67.006 and S67.023) generally supports the provisions of the PDP in respect of protecting natural landscape values and seeks that the policies are retained. Waka Kotahi (S356.070) supports NFL-P1 and request that it is retained as notified.

119. P S Yates Family Trust (S333.034), Setar Thirty Six (S168.042) and four others submit that the PDP does not provide appropriate recognition of existing and/or authorised subdivision and development in ONLs and ONFs and request insertion of a new policy, as follows:

“Recognise that identified ONLs and ONFs may contain existing and/or authorised subdivision, use and development and provide for these activities.”

120. Twin Coast Cycle Trail (S425.034) request the same relief for the policies as for the objectives, being the amendment of the provisions to ensure that



maintenance, operation, and upgrade of regionally significant infrastructure is provided for.

121. John Riddell (S431.161, S431.162, S431.163, and S431.164) seeks a raft of additional policies:

1. *"That the cumulative effects of changes to the character of ONL's be taken into account in assessing applications for resource consent*
2. *That the visibility of Outstanding Landscape Features, when viewed from public places, be taken into account in assessing applications for resource consent.*
3. *That activities avoid or mitigate adverse effects on the scientific and amenity values associated with outstanding natural features.*
4. *That the high value of indigenous vegetation to Outstanding Landscapes be taken into account when assessing applications for resource consents.*
5. *That landscape values be protected by encouraging development that takes into account:*
 - (a) the rarity or value of the landscape and/or landscape features;*
 - (b) the visibility of the development;*
 - (c) important views as seen from public vantage points on a public road, public reserve, the foreshore and the coastal marine area;*
 - (d) the desirability of avoiding adverse effects on the elements that contribute to the distinctive character of the coastal landscapes, especially outstanding landscapes and natural features, ridges and headlands or those features that have significant amenity value;*
 - (e) the contribution of natural patterns, composition and extensive cover of indigenous vegetation to landscape values;*
 - (f) Māori cultural values associated with landscapes;*
 - (g) the importance of the activity in enabling people and communities to provide for their social, economic and cultural well-being."*



122. Haititaimarangai Marae Kaitiaki Trust (S394.039) are concerned adverse effects on cultural values must be managed appropriately as a part of any subdivision, and not just considered. The submitter requests a new policy as follows:

"Avoid any significant adverse cultural effects and avoid, remedy or mitigate any other adverse cultural effects."

Analysis

123. In respect to the submissions seeking a new policy to recognise existing and/or authorised subdivision, use, and development, my view is any such recognition should be addressed in NFL-P4. My recommendation is for NFL-P4 to be expanded to include all existing lawfully established activities (not just farming) – refer to Key Issue 10: NFL-P4 below.
124. In respect to the Twin Coast Cycle Trail submission, I addressed a similar request from the submitter in 'Key Issue 6: Objectives'. For those same reasons I do not recommend any amendments to policies in the NFL chapter in response to this submission.
125. I note that J Riddell's proposed additional policies are from the ODP. The submitter states that the additions are required to achieve the purpose of the RMA. The following is my analysis of the proposed additions:

Proposed policy	Analysis
1. That the cumulative effects of changes to the character of ONL's be taken into account in assessing applications for resource consent	It is unnecessary to include a policy for considering cumulative effects. Resource consent applications are required to assess effects, and cumulative effects are included in the definition of 'effects' (Section 3, RMA). I recommend the policy <u>is not</u> included.
2. That the visibility of Outstanding Landscape Features, when viewed from public places, be taken into account in assessing applications for resource consent.	I agree public visibility is a legitimate consideration. Rather than a stand-alone policy, my view is it would better sit within NFL-P8 as an additional matter: <i><u>the visibility of impacts viewed from public places; and</u></i> I recommend that this additional clause is inserted into NFL-P8.
3. That activities avoid or mitigate adverse effects on the scientific and	It is not clear why the submitter has specifically identified these particular values for ONF. There are other values associated with ONF, such as



<p>amenity values associated with outstanding natural features.</p>	<p>educational and visual values⁶. Also, the proposed policy conflicts with NFL-P1 which requires adverse effects in ONF in the coastal environment to be avoided (i.e. mitigation is not an option if adverse effects are not avoided).</p> <p>I recommend the policy <u>is not</u> included.</p>
<p>4. That the high value of indigenous vegetation to Outstanding Landscapes be taken into account when assessing applications for resource consents.</p>	<p>It is not clear why the submitter has specifically identified these particular values for ONL. There are a wide range of values associated with ONL – refer APP1: <i>Outstanding Natural Landscape identification and assessment criteria</i>.</p> <p>I recommend the policy <u>is not</u> included.</p>
<p>5. That landscape values be protected by encouraging development that takes in account...</p>	<p>In the absence of a reason for the proposed policy (other than it achieving the purpose of the RMA) it is difficult to assess the proposed policy in comparison to what is already addressed under NFL-P8 (which appears to address many of the matters covered in the proposed policy) and the other policies.</p> <p>However, I have recommended the following be added to NFL-P8, as a result of submissions on NFL-S1 (refer Key Issue 23: Standards):</p> <p><i><u>the visual effect of the building, structure or activity on nearby ridgelines, headlands or peninsula</u></i></p> <p>Otherwise recommend the policy <u>is not</u> included.</p>

126. In respect to Haititaimarangai Marae Kaitiaki Trust’s request for a new policy for managing effects on cultural values, it is not clear to me how the proposed policy relates to ONL and ONF. I note that ‘cultural associations’ is already included as criterion for ONL (refer APP1). Because it’s not clear to me how the proposed policy relates to ONL and ONF, I am not able to recommend its inclusion. The submitter may wish to provide further information at the hearing.

Recommendation

127. For the reasons outlined above, I recommend:
- a. The Russell Protection Society and Michael Winch submissions are accepted in part to the extent that the intent of the policies is retained;

⁶ Hayward, B. (2016). Outstanding Natural Features Identifying and Mapping sites in Far North District Council: Methodology Report.



- b. The P S Yates Family Trust, Setar Thirty Six and four other submissions are accepted in part to the extent that my recommended changes to NFL-P4 in Key Issue 10 below address their requested relief;
- c. The Twin Coast Cycle Trail submission is accepted in part to the extent the submitters aspirations are provided for in the Infrastructure chapter;
- d. The J Riddell submission requesting various new policies is accepted to part to the extent the policies and recommended changes address the submitters requests.
- e. The Haititaimarangai Marae Kaitiaki Trust submission requesting a new policy for managing effects on cultural values is accepted in part to the extent the PDP (e.g. APP1) already captures the submitters requests; and
- f. The Waka Kotahi submission that supports NFL-P1 is accepted in part; and
- g. the addition of "*the visibility of impacts viewed from public places; and*"to NFL-P8.

Section 32AA evaluation

- 128. Only the addition of "*the visibility of impacts viewed from public places; and*" to NFL-P8 is considered in this s32AA evaluation (the changes referred to in respect to NFL-P4 are addressed in 'Key Issue 10: NFL-P4'). The addition is a helpful addition to provide guidance in the assessment of impacts on ONL and ONF. It is unlikely to result in any substantive additional costs and it provides additional assistance in implementing the objective(s).

6.2.8 Key Issue 8: NFL-P2

Overview

Provision(s)	Officer Recommendation(s)
NFL-P2	No change in response to submissions considered under this key issue. (Refer Key issue 3 for other submissions on this policy and recommended changes).

Analysis of Submissions on Key Issue 8: NFL-P2

Matters raised in submissions

- 129. Haititaimarangai Marae Kaitiaki Trust (S394.036) support NFL-P2 because it neatly implements section 6(b) of the RMA.



130. Federated Farmers (S421.153) request that NFL-P2 (and NFL-P3 and NFL-P7) are amended to achieve consistency with section 6(b) of the RMA, namely to recognise the need to allow appropriate subdivision, use and development in line with their requested amendments to the NFL objectives.
131. Various submitters, including Setar Thirty Six Limited (S168.035) and the Shooting Box Limited (S187.028) seek NFL-P2 is amended to - "*...the identified characteristics and qualities values of ONL and ONF...*". These submissions are addressed in Key Issue 3: Characteristics and qualities of ONL and ONF.

Analysis

132. Federated Farmers argue that NFL-P2 needs to be amended to be consistent with the relief sought by Federated Farmers for NFL-O1 and NFL-O2. This relief involved amending the objectives to focus on avoiding inappropriate subdivision, use and development within ONL and ONF while recognising certain activities can occur if they are appropriate for the areas.
133. The approach used in the NZCPS and RPS to determine whether an activity is inappropriate is to focus on the extent of its effects and whether the activity meets the level of allowable adverse effects on ONL and ONF. The NZCPS sets a standard for inappropriate development through its requirement for activities to avoid adverse effects on ONL and ONF in the coastal environment. The RPS adopts the same approach for ONL and ONF in the coastal environment and sets a bar of avoiding significant adverse effects on ONL and ONF outside the coastal environment.
134. Many other district and regional plans adopt the same approach. It is a common and well tested planning response to giving effect to the RMA section 6(b) direction for determining inappropriate subdivision, use and development.
135. Accordingly, in my opinion the wording of NFL-P2 as notified appropriately gives effect to RMA section 6(b), the NZCPS and the RPS. (Note – I am recommending changes to NFL-P2 which amend the way the ‘characteristics and qualities’ are referred to in the policy – refer Key issue 3.)
136. I therefore do not recommend any changes in response to Federated Farmers submission.

Recommendation

137. For the above reasons, I recommend:
 - a. Rejecting the Federated Farmers submission (S421.153).
 - b. Accepting the Haititaimarangai Marae Kaitiaki Trust submission (S394.036).



Section 32AA evaluation

138. No change to the provisions is recommended in response to the Federated Farmers submission (S421.153, 154) and Haititaimarangai Marae Kaitiaki Trust submission (S394.036). On this basis, no evaluation under Section 32AA is required.

6.2.9 Key Issue 9: NFL-P3

Overview

Provision(s)	Officer Recommendation(s)
NFL-P3	No change in response to submissions considered under this key issue. (Refer Key issue 3 for other submissions on this policy and recommended changes).

Analysis of Submissions on Key Issue 9: NFL-P3

Matters raised in submissions

139. Haititaimarangai Marae Kaitiaki Trust (S394.037) support NFL-P3 in part but seek clarification that several characteristics may count towards a site qualifying as ONF or ONL and, therefore, it is important that adverse effects are appropriately addressed in relation to each characteristic or quality. To achieve this, the submitter requests the following change:

"Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on any of the characteristics and qualities of ONL and ONF outside the coastal environment."

140. Federated Farmers (S421.154) request that NFL-P3 (and NFL-P2 and NFL-P7) are amended to achieve consistency with section 6(b) of the RMA, namely to recognise the need to allow appropriate subdivision, use and development in line with their requested amendments to the NFL objectives.
141. Various submitters, including Setar Thirty Six Limited (S168.036) and the Shooting Box Limited (S187.098) seek NFL-P3 is amended to - "...the identified characteristics and qualities values of ONL and ONF...". These submissions are addressed in Key Issue 3: Characteristics and qualities of ONL and ONF.

Analysis

142. While I do not disagree with Haititaimarangai Marae Kaitiaki Trust, in my opinion adding the words "*any of*" is redundant. The way the policy is written already achieves this. If there are significant adverse effects on even



one characteristic or quality then a proposal would not comply with the policy because the requirement is to avoid such effects.

143. Refer to the analysis in Key Issue 8: NFL-P2 in response to the Federated Farmers request. No changes are recommended in response to the submission.

Recommendation

144. For the above reasons, I recommend
- a. accepting in part the Haititaimarangai Marae Kaitiaki Trust submission (S394.037), to the extent the policy already achieves the intent of the submission.
 - b. Rejecting the Federated Farmers submission (S421.154).

Section 32AA evaluation

145. No change to the provisions is recommended in response to the submissions. On this basis, no evaluation under Section 32AA is required.

6.2.10 Key Issue 10: NFL-P4

Overview

Provision(s)	Officer Recommendation(s)
NFL-P4	Amend the policy to broaden its scope from just farming activities to all existing use and development.

Analysis of Submissions on Key Issue 10: NFL-P4

Matters raised in submissions

146. Various submitters (including the Shooting Box Limited (S187.029) and Matauri Trustee Limited (S243.052)) supported the policy, apart from a request for the following change: "*...the identified characteristics and qualities values that...*". This request has been addressed in 'Key Issue 3: Characteristics and qualities of ONL and ONF'.
147. Various primary production submitters (including Summit Forests New Zealand Limited (S148.027) and PF Olsen Limited (S91.010) sought amendments to NFL-P4 to broaden its application to other primary production activities (not just farming).
148. Horticulture NZ (S159.060) request NFL-P4 include an additional clause c):
c) the activity is an existing land use



149. Thomson Survey (S198.001) oppose NFL-P4, contending that making any kind of farming within an ONL or ONF a discretionary activity is unjustified, unacceptable and unreasonable. The submitter requests that NFL-P4 is deleted.

Analysis

150. NFL-P4 currently reads:

"Provide for farming activities within ONL and on ONF where:

- a. the use forms part of the characteristics and qualities that established the landscape or feature; and*
- b. the use is consistent with, and does not compromise the characteristics and qualities of the landscape or feature."*

151. NFL-P4 needs to be read together with the definition of farming in the PDP which is:

"means the use of land for the purpose of agricultural, pastoral, horticultural or apiculture activities, including accessory buildings, but excludes mining, quarrying, plantation forestry activities, intensive indoor primary production and processing activities. Note: this definition is a subset of primary production".

152. I consider clause a) of NFL-P4 is problematic. In my view the current wording of NFL-P4(a) reads as if the farming activities (or aspects of them) may contribute to the characteristics and qualities that established the ONL or ONF. However, it would seldom be the case that farming activities (for example buildings, pasture, and horticulture) would form part of the reason for the ONL and ONF being identified. Rather, the important point is that ONL and ONF have been identified despite the existing activities being present (not because of them). In my opinion clause a) should be worded to recognise that existing (lawfully established) activities should be allowed to continue to operate within ONL and/or ONF without undue restriction. This reflects the thrust of the RPS direction - refer to RPS Policy 4.6.1(3) and Method 4.6.3(4) respectively (bold added for emphasis):

...

- (3) When considering whether there are any adverse effects on the characteristics and qualities⁹ of the natural character, natural features and landscape values in terms of (1)(a), whether there are any significant adverse effects and the scale of any adverse effects in terms of (1)(b) and (2), and in determining the character, intensity and scale of the adverse effects:*



a) *Recognise that a minor or transitory effect may not be an adverse effect;*

b) *Recognise that many areas contain ongoing use and development that:*

(i) *Were present when the area was identified as high or outstanding or have subsequently been lawfully established*

(ii) May be dynamic, diverse or seasonal;

(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.*

...

153. In addition the various submitters raising the point that NFL-P4 should be broadened to primary production activities, there was also a group of submitters seeking the addition of a new policy to recognise that ONL and ONF contain existing subdivision, use and development (refer Key issue 7: Policies general).
154. RPS Policy 4.6.1(3) and Method 4.6.3(4) support recognition of all existing lawfully established use and development within ONL and ONF. It is not clear to me why the policy is limited to farming activities. There are a range of activities occurring in ONL and ONF, and, in my view, there is no resource management reason why farming should be identified above other existing uses and development in ONL and ONF. Therefore, I recommend the policy be broadened to capture all existing use and development, to better give effect to RPS policies 4.6.1(3) and Method 4.6.3(4).
155. In my opinion the intent of clause b) is also unclear. I address the use of the words "*consistent with*" and "*does not compromise*" in Key Issue 6: Objectives above, where I concluded that these concepts should not be used as their meaning is uncertain, the language does not give effect to the NZCPS or RPS and it creates potentially conflicting policy direction with NFL-P2 and NPF-P3. For this reason, I recommend clause b) be deleted. There were no submissions explicitly seeking this change, however in my view it is a consequential change as a result of recommended changes to NFL-O2 and my recommendation to make the overall policy direction in NFL-P4 focused on lawfully established activities.



Recommendation

156. For the above reasons, I recommend that the submissions received on NFL-P4 seeking the policy be expanded to include other activities are accepted in part, and the policy be amended as follows:

Recognise that lawfully established activities form part of ONL and ONF and allow these activities to continue without undue restriction.

~~*Provide for farming activities within ONL and ONF where:*~~

- a. ~~*the use forms part of the characteristics and qualities that established the landscape or feature; and*~~
- b. ~~*the use is consistent with, and does not compromise the characteristics and qualities of the landscape or feature.*~~

Section 32AA evaluation

157. The recommended amendment better gives effect to RPS Policy 4.6.1 and Method 4.6.3 and more accurately captures the intent in respect to how existing use and development are addressed.

6.2.11 Key Issue 11: NFL-P5

Overview

Provision(s)	Officer Recommendation(s)
NFL-P5	Replace the policy with new wording.

Analysis of Submissions on Key Issue 11: NFL-P5

Matters raised in submissions

158. Te Rūnanga o Ngāti Rēhia (S559.025) support NFL-P5 but are concerned with the phrase "*ancestral use of that land*" as there is no guarantee the land given back would have a known 'ancestral use' and further, dictating how the submitter can use their treaty settlement land is contrary to SD-CP-O1. The submitter highlights that the policy "*...needs to be open to use and develop the land in a way that meets the aspirations of the landholders without adverse effects on the natural features and landscapes.*" The submitter requests that "*ancestral use of that...*" is deleted.
159. Various submitters (including the Shooting Box Limited (S187.030) and PS Yates Family Trust (S333.030)) request for the following change: "*...any identified characteristics and qualities values of...*". This request has been addressed in 'Key Issue 3: Characteristics and qualities of ONL and ONF'.



160.

Analysis

161. Policy NFL-P5 reads:

"Provide for the use of Māori Purpose zoned land and Treaty Settlement land in ONL and ONF where land use and subdivision is consistent with the ancestral use of that land and does not compromise any identified characteristics and qualities of ONL and ONF."

162. I agree with the submitter. If a policy is to be included providing for the use of land by Māori, then the use should not be constrained to ancestral uses.

163. RMA section 6(e) requires the district plan to:

"...recognise and provide for... the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga..."

164. There is no limitation to ancestral use in RMA section 6(e).

165. I also note the policy direction in Māori Purpose Zone and Treaty Settlement land overlay, which seeks to enable a broader range of activities with the zone and overlay where adverse effects can be avoided, remedied or mitigated.

166. I have concerns with the use of the words "consistent with" and "does not compromise" in the policy. I address this in Key Issue 6: Objectives, concluding that these phrases should not be used in the NFL chapter because of uncertainty over intent and the fact that this language does not give effect to the NZCPS and RPS.

167. Accordingly, I recommend the existing policy be replaced with the following:

Enable land use and subdivision within Māori Purpose zoned land and Treaty Settlement land by recognising that adverse effects on ONL and ONF may be acceptable to support the social, economic and cultural wellbeing of tangata whenua.

168. I understand the reporting officer for the Coastal Environment chapter section 42A report is recommending the same new wording for CE-P7.

169. NFL-P5 will lend weight to allowing adverse effects on ONL and ONF (that may not have otherwise been appropriate), provided the effects are no greater than the adverse effects bottom lines set by NFL-P2 and NFL-P3.

Recommendation

170. For the above the reasons, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and NFL-P5 is amended as follows:

Provide for the use of Māori Purpose zoned land and Treaty Settlement land in ONL and ONF where land use and subdivision is consistent with



the ancestral use of that land and does not compromise any identified characteristics and qualities of ONL and ONF outstanding.

Enable land use and subdivision within Māori Purpose zoned land and Treaty Settlement land by recognising that adverse effects on ONL and ONF may be acceptable to support the social, economic and cultural wellbeing of tangata whenua.

Section 32AA evaluation

171. I consider that my recommended amendment to NFL-P5 better reflects the intent to provide for the use and development of Māori Purpose zoned land and Treaty Settlement land, consistent with RMA section 6(e), NFL-O3 and the policy direction for the Māori Purpose zone and Treaty Settlement land overlay.

6.2.12 Key Issue 12: NFL-P6

Overview

Provision(s)	Officer Recommendation(s)
NFL-P6	Amend the policy.

Analysis of Submissions on Key Issue 12: NFL-P6

Matters raised in submissions

172. P S Yates Family Trust (S333.031), Setar Thirty Six (S168.039) and four other submitters request the same relief to amend NFL-P6 as follows:

"Encourage the restoration and enhancement of ONL and ONF areas where it is consistent with the characteristics and qualities."

173. The submitters argue that the restoration and enhancement of ONL and ONF should always be encouraged and to do otherwise may hold such areas in a degraded state.

Analysis

174. I agree with the submitters proposed changes on the basis that any restoration and enhancement of ONL and ONF should be encouraged. Also, it is redundant wording because it would unlikely be considered restoration or enhancement of the ONL or ONF if it were inconsistent with the characteristics and qualities of the ONL or ONF. However, I disagree with the inclusion of the word "areas" as it is unnecessary.

Recommendation



175. For the reasons above, I recommend the submissions by P S Yates Family Trust and others are accepted in part and recommend the following amendment to NFL-P6:

"Encourage the restoration and enhancement of ONL and ONF, where it is consistent with the characteristics and qualities."

Section 32AA evaluation

176. The recommended amendments do not change the general intent of the provision. On this basis, no evaluation for these recommended amendments under section 32AA is required.

6.2.13 Key Issue 13: NFL-P7

Overview

Provision(s)	Officer Recommendation(s)
NFL-P7	Delete the policy.

Analysis of Submissions on Key Issue 13: NFL-P7

Matters raised in submissions

177. Bentzen Farm (S167.037), Matauri Trustee (S243.055) and several other submitters request the deletion of NFL-P7. These submitters consider that NFL-P7 is too restrictive some loss of 'characteristics and qualities' should be able to be sustained before those values are gone.
178. Haititaimarangai Marae Kaitiaki Trust (S394.038) largely support NFL-P7 but notes that each characteristic or quality of NFLs should attract protection. The submitter request NFL-P7 is amended to refer to any of the characteristics to clarify this.
179. Federated Farmers (S421.155) request that NFL-P7 (and NFL-P2 and NFL-P3) are amended to achieve consistency with section 6(b) of the RMA, namely to recognise the need to allow appropriate subdivision, use and development in line with their requested amendments to the NFL objectives.

Analysis

180. I agree with Bentzen Farms and others that NFL-P7 is too restrictive. While the policy may align with the 'avoid adverse effects' position for ONL and ONF in the coastal environment, it does not align with NFL-P3 where adverse effects on ONL and ONF outside the coastal environment are allowable provided they are not significant.



181. The prohibited rules for mineral extraction (NFL-R8) and fill (NFL-R9) can rely on policies NFL-P2 and NFL-P3 on the basis that these activities cannot meet the adverse effects bottom lines set by these policies.

Recommendation

182. For the reasons above, I recommend:
- a. the submissions from Bentzen Farm and others are accepted;
 - b. the Haititaimarangai Marae Kaitiaki Trust submission (S394.038) is accepted in part to the extent that policies NFL-P2 and NFL-P3 achieve their position; and
 - c. the Federated Farmers submission is accepted in part, to the extent the recommended deletion of NFL-P7 achieves their request; and
 - d. NFL-P7 is deleted.

Section 32AA evaluation

183. The deletion of NFL-P7 removes the conflict with RPS Policy 4.6.1 and NFL-P3, which recognises less than significant adverse effects on ONL and ONF outside the coastal environment may be appropriate. NFL-P2 and NFL-P3 can be relied upon for the rules prohibiting activities that would have undue adverse effects on ONL and ONF. I consider that deleting the policy is appropriate and better achieves the relevant objectives in terms of section 32AA of the RMA.

6.2.14 Key Issue 14: NFL-P8

Overview

Provision(s)	Officer Recommendation(s)
NFL-P8	Amendments to the chapeau of the rule and an additional matter on the visibility of impacts viewed from public places.

Analysis of Submissions on Key Issue 14: NFL-P8

Matters raised in submissions

184. Waka Kotahi (S356.071) support NFL-P8 and request that it is retained as notified.
185. In contrast, Bentzen Farm (S167.038) and several other submitters consider that NFL-P8 reads more as a method of assessment than a policy and suggest it is more appropriately included as an assessment criterion. It is inferred that these submitters request that NFL-P8 is deleted.



Analysis

186. NFL-P8 functions as a 'consideration' policy, which is an approach that has been adopted consistently across the PDP chapters to provide a consistent way of ensuring all relevant matters can be assessed when resource consent is required under the relevant chapter. I consider that this is an appropriate drafting approach to adopt consistency across the PDP and recommend that NFL-P8 is retained on that basis.
187. However, I have identified drafting issues with the chapeau of NFL-P8 which are equally applicable to other 'consideration' policies in the PDP:
- a. It includes a statement of the outcome sought (i.e. "...*protect ONL and ONF...*") which both duplicates and slightly conflicts with earlier policies.
 - b. It is unnecessarily lengthy (i.e. "*manage land use and subdivision...and address the effects of the activity...including (but not limited to) consideration of...*") which makes the intended application of the policy somewhat confusing in my opinion.
188. I consider that these issues can be easily addressed by simplifying the chapeau of NFL-P8 to be much clearer on its purpose as follows:
- "Consider the following matters where relevant when assessing and managing the effects of land use and subdivision on ONL and ONF:"*
189. I understand the same recommendations are being made to the equivalent policies in the Coastal Environment and Natural Character chapters. However, I note that this recommendation has broader implications for other corresponding 'consideration' policies in the PDP which may be considered by reporting officers where relevant and potentially through Hearing 20 as a wider plan integration/drafting issue.
190. Under Key Issue 7: Policies – General I recommend the inclusion of "*the visibility of impacts viewed from public places*" as an additional matter to be added to NFL-P8. Refer to that key issue for the reasons for the recommendation.

Recommendation

191. For the reason above, I recommend:
- a. accepting in part the submission from Bentzen Farm (S167.038) and other submissions seeking the same or similar relief;
 - b. accepting in part the Waka Kotahi submission (S356.071) to the extent that policy is retained except for an amendment to the chapeau; and



- c. Amending the chapeau of the policy as follows:

"Consider the following matters where relevant when assessing the effects of land use and subdivision on ONL and ONF:"

Manage land use and subdivision to protect ONL and ONF and address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application

Section 32AA evaluation

192. I consider that the recommended amendment to NFL-P8 will provide more effective and efficient drafting to achieve the relevant objectives when compared to the notified version of the policies in the PDP. Also, the amendment will achieve a more efficiently drafted chapeau that more effectively explains the intended purpose of the policy. As such, I consider the recommended amendment is appropriate, effective and efficient way to achieve the relevant objectives in terms of section 32AA of the RMA.

6.2.15 Key Issue 15: Rules - General

Overview

Provision(s)	Officer Recommendation(s)
Rules	Various amendments to NFL-R1

Analysis of Submissions on Key Issue 15: Rules - General

Matters raised in submissions

193. Two submitters support the rules in the NFL chapter. Michael Winch (S67.007) supports the rules and seeks that they are retained as they protect natural landscape values. The Russell Protection Society (S179.078) support the rules of the NFL chapter for the same reasons outlined in relation to other provisions of the NFL elsewhere in this report.
194. Errol McIntyre (S216.002) opposes all controls over private land as they are an infringement of property rights. Therefore, the submitter considers that Council should waive rates on all ONLs or ONFs that are referred to in the PDP.
195. A number of submitters including, for example, Mark Wyborn (S497.005) and William Goodfellow (S493.006), consider that the imposition of controls to manage development in ONL will unfairly and unnecessarily constrain development. These submitters request that all provisions in the plan for non-complying activities located within an ONL be deleted.



196. Wendover Two (S222.044) and five other submitters also oppose the non-complying activity status for new buildings and structures within and ONL or ONF in the coastal environment. The reason being that the rules impose considerable unnecessary cost and risk to current owners of sites within these areas who have purchased lots on the understanding that their entitlement to build on them is protected.
197. Twin Coast Cycle Trail (S425.035) request that the provisions of the NFL chapter be amended to ensure that the maintenance, operation and upgrade of regionally significant infrastructure is adequately provided for.
198. Foodstuffs North Island (S363.036), Paihia Properties (S344.044) and Ngāi Tai Ora – Public Health Northland (S516.084) all identify that the overlay chapters are inconsistent in their reference to rules for “*activities not otherwise listed.*” The submitters request that rules are inserted for “*Activities not otherwise listed in this chapter*” into all overlay chapters.
199. PF Olsen (S91.016) seeks clarification and justification as to why plantation forestry earthworks are required to comply with more stringent standards in the NFL overlays, and for those standards to not equally apply to other primary production activities. The submitter is concerned that these rules go beyond the scope of the Council’s powers under section 31 of the RMA. They seek that rules for plantation forestry activities in the NFL chapter are amended to provide a consistent application of rules to these activities and to delete the matters of discretion as they are irrelevant. Summit Forests New Zealand (S148.029) raise a similar concern and request that the rules are amended to provide for existing Plantation Forestry and associated activities in an ONL or ONF as a permitted activity, subject to the provisions of the NES-PF.
200. Top Energy (S483.160) requests the inclusion of a permitted activity rule for upgrades to existing electricity infrastructure that is already present within NFL areas. The Telco Companies (S282.027) raise a similar concern that the rules do not provide for new infrastructure activities, even in instances where there may be a functional or operational need for such activities to be located in NFL areas. They request an amendment to allow for new infrastructure to be established within the road reserve when located within an ONL and ONF.
201. Forest & Bird (S511.083 and S511.084) and Kapiro Conservation Trust (S442.102 and S442.103) request two new rules (bold added for emphasis):
 - a. *Extension to Mineral Extraction activities in an **ONL**: non-complying activity*
 - b. *Extension to Mineral Extraction activities in an **ONF**: prohibited activity*



202. NRC (S359.032) are concerned that there is potential for unintended consequences of the rules applying NFLs as new fencing requires resource consent under the notified rules. As such, NRC request that the permitted activity rules are expanded to allow for fencing within NFLs where it is required for protection or enhancement of soil conservation treatments, waterbodies and wetlands in line with the Stock Exclusion Regulations or Regional Plan rules.

Analysis

Buildings in approved subdivisions

203. I agree with Wendover Two and others that, where a building platform has been approved by a subdivision consent, the construction of a subsequent building should be a controlled activity. If consent has already been granted for subdivision and the subdivision consent anticipated buildings, it would be a significant imposition to have to go through a comprehensive (and costly) assessment process for the building. The submitters propose the following wording:
- a. The insertion of a new controlled activity rule: *"New buildings or structures, and extensions or alterations to existing buildings or structures within an approved building platform or buildable area on a site for which a subdivision consent was granted after 1 January 2000."*
 - b. The insertion of a single matter of control for the new rule: *"compliance with location, height, design and mitigation conditions which apply to the site or building platform by way of resource consent condition or consent notice"*.
 - c. That the new rule precludes activities from being publicly or limited notified.
204. I have discussed this proposed rule with the reporting officer for the Coastal Environment topic where the same relief is being requested for the equivalent rule. We also have landscape advice on this issue, which is addressed in Section 4.12 of the MAL Report in Appendix 3. Based on this advice, I recommend NFL-R1 is amended to provide a new controlled activity rule for new buildings on an approved building platform subject to the following conditions/requirements:
- a. The approved building platform forms part of an existing subdivision consent (i.e. it has not lapsed or expired).
 - b. The new building must be a residential unit. This is to limit the possibility of other substantive types of building. I note that smaller buildings (such as a garage) are permitted in ONL and ONF under NFL-R1 where they are less than 50m² in the coastal environment



and 100m² outside the coastal environment, as per my recommended amendments.

- c. An expert landscape assessment was undertaken as part of the existing subdivision consent to ensure landscape effects were carefully considered at the time of subdivision.
- d. The matters of control include:
 - i. Any adverse effects of the characteristics, qualities and values of the coastal environment, including natural character and natural landscapes.
 - ii. The matters in NFL-P8. (NFL-P8 sets out the key matters to be considered when assessing effects on ONL and ONF, therefore appropriate that they are also the matters over which control limited).

205. The submitter proposed rule applies to subdivision consents granted after 1 January 2000. I am not clear why the submitter suggests this date and therefore I recommended it not be included.

206. I do not agree with precluding public or limited notification. Controlled activities will always be non-notified unless the applicant requests it or there are special circumstances (section 95A, RMA). It would seldom (if ever) be the case that an applicant would request such an application be publicly notified. However, there is a possibility a legitimate special circumstance may arise in this context. For example, it may be that there is significant landscape issue (such as Māori cultural values) that was not addressed in the expert landscape assessment undertaken with the subdivision application, and public notification may elicit additional information to assist with conditions to mitigate effects. I recommend retaining this discretion.

207. I recommend a new controlled activity rule within NFL-R1 as follows:

"A residential unit on a defined building platform, where the defined building platform has been identified through an expert landscape assessment and approved as part of an existing subdivision consent.

The matters of control are:

- a. effects on the characteristics, qualities and values of ONL and ONF;*
- b. the matters in NFL-P8.*

208. The rule is based on a similar rule in the Whangarei District Plan (NFL-ONL-R3).

Forestry



209. PF Olsen seek the rules for plantation forestry activities be amended to be consistent with other primary production activities. Summit Forests New Zealand suggest that plantation forest activity should be a permitted activity in ONL and ONF.
210. I have recommended changes to NFL-R2 and NFL-R3 to make track maintenance (earthworks and vegetation clearance) a permitted activity. Refer to Key Issues 19 and 20 for further analysis.
211. I have also recommended changes to NFL-R5, which will mean only afforestation (i.e. new commercial plantation forest) will be a discretionary activity (and not all other plantation forestry activity as is currently the case.) Refer Key Issue 21: NFL-R5 for further analysis.
212. The combination of these changes would appear to address most of the submitters' concerns.

Infrastructure

213. Top Energy seek the following new permitted activity rule:
- "The upgrade of electricity network utility structures or buildings:*
- 1. is within 5m of the existing alignment location of the original structure or building;*
 - 2. does not increase the gross floor area by more than 30 percent in a 10-year period if it is a building;*
 - 3. complies with the zones permitted setback standards if it is a building.*
 - 4. does not result in pole or tower height that exceeds 25m above ground level;*
 - 5. does not result in more than two additional poles;*
 - 6. does not result in additional towers; and*
 - 7. any additional cross arms do not exceed a length of more than 4m."*
214. It appears the requested rule mimics the wording of permitted I-R3 rule in the Infrastructure chapter.
215. The request is considered in the MAL report (Appendix 3, Section 4.2 NFL and NATC – Infrastructure Rules).



216. I agree the rules should better provide for electricity infrastructure in ONL and ONF given the economic and community benefits of such infrastructure, but these benefits must be considered against the policy directive to avoid adverse (coastal environment) and significant adverse effects (outside coastal environment) on ONL and ONF.
217. I cannot support the submitters request for permitting the upgrading of electricity infrastructure in ONL and ONF in the coastal environment. In my opinion, the potential for adverse effects on ONL and ONF from upgrading works (that cannot meet NFL-R1) is high enough to warrant proposals going through a resource consent process. The MAL report supports this conclusion.
218. However, I am comfortable with electricity network utility upgrades in ONL outside the coastal environment being a permitted activity given the less stringent policy bar for adverse effects. However, as recommended in the MAL report, the following limitations should be applied to the upgrade:
- a. It is no greater than greater of 10m or the height of existing structure;
 - b. Does not involve replacing a pole with a pi pole; and
 - c. Is no greater than 20% of the GFA of the existing lawfully established building or structure.
219. I also support permitting such upgrades in category 'A' ONF outside the coastal environment. The ONF methodology report⁷ notes that ONF are particularly sensitive to buildings and structures. The exception is within a category 'A' ONF, which the ONF methodology report states "... *are sufficiently large and robust to withstand moderate to small-scale... constructions without significant impact*".⁸
220. Accordingly, I recommend the following additional permitted activity condition for NFL-R1:

"PER-3

Any new building or structure, and extension or alteration to an existing building or structure not provided for by PER-1 or PER-2 and is:

⁷ Hayward, B. (2016). *Outstanding Natural Features Identifying and Mapping sites in Far North District Council: Methodology Report*.

⁸ As set out in the "*Outstanding Natural Features identification and assessment criteria*" in APP1, ONF are categorised based on their type and their vulnerability to 'human actions'.



...

3. an upgrade of existing electricity network utilities is:

a. outside the coastal environment

b. in a ONL or category 'A' ONF

c. no greater than 10m high or the height of the existing structure

d. no greater than 20% of the GFA of the existing lawfully established building or structure, and

e. not replacing a pole with a pi pole.

221. I agree with the Telco Companies that allowing telecommunication activities within the road reserve is appropriate for the reasons set out in their submission. This is supported by the MAL report (refer Appendix 3, Section 4.2 NFL and NATC – Infrastructure Rules), provided the height of any structure is limited to 10m and any poles are limited to single poles. Accordingly, I recommend the following:

PER-3

Any new building or structure, and extension or alteration to an existing building or structure not provided for by PER-1 or PER-2 and is:

...

2. infrastructure within a road corridor less than 10m high provided any pole:

a. is a single pole (monopole), and

b. is not a pi-pole or a steel-lattice tower, or

Other submissions

222. The following table contains my analysis of the remaining submissions considered under this key issue:

Submission	Analysis
Errol McIntyre (S216.002)	A decision to waive rates on all ONL and ONF is outside the scope of the PDP.



<p>Mark Wyborn (S497.005) and others</p>	<p>I do not agree with the request to unilaterally delete non-complying activity rules in the PDP. Non-complying activities are an appropriate planning response to activities that are generally likely to have substantive effects of concern, while 'keeping the door open' to allow proposals to be considered. However, I have made recommended amendments to NFL-R1 and NFL-R3 so that non-compliance with the permitted conditions be changed from non-complying to restricted discretionary (refer Key Issues 17 and 19 respectively).</p>
<p>Twin Coast Cycle Trail (S425.035)</p>	<p>I addressed a similar request from the submitter in Key Issue 6: Objectives. In summary - I am unable to assess this relatively broad request as I have no sense of the wording that would satisfy the submitters concerns. However, the submitters concerns may already be addressed in the "Infrastructure" chapter.</p>
<p>Foodstuffs North Island (S363.036),</p>	<p>The submitters suggest new 'catch-all' rules are required for the NFL (and other overlay) chapters. I do not agree – as outlined in the 'How the Plan Works' chapter, if there are no rules in the NFL chapter, then the activity is a permitted activity in terms of the overlay chapter and the underlying zone rules will continue to apply.</p>
<p>Forest & Bird (S511.083 and S511.084) and Kapiro Conservation Trust (S442.102 and S442.103)</p>	<p>Refer to Key Issue 22: NFL:R7 for my analysis and recommendations regarding the activity status of extensions to existing mineral extraction activities.</p>
<p>NRC (S359.032)</p>	<p>I agree with the concerns about the rules applying to new stock fencing and I recommend changes accordingly.</p>

Recommendation

223. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and:

- a. The addition of a new controlled activity condition in NFL-R1:

The building is a residential unit on a defined building platform, where the defined building platform has been identified through an expert landscape assessment and approved as part of an existing subdivision consent.

The matters of control are:

- a. effects on the characteristics, qualities and values of ONL an ONF*



b. the matters in NFL-P8.

b. A new PER-3:

Any new building or structure, and extension or alteration to an existing building or structure not provided for by PER-1 or PER-2 and is:

- 1. a stock fence, or*
- 2. infrastructure less than 10m high within a road corridor provided any pole:*
 - a. is a single pole (monopole), and*
 - b. is not a pi-pole or a steel-lattice tower, or*
- 3. an upgrade of existing electricity network utilities is:*
 - a. outside the coastal environment*
 - b. in a ONL or category 'A' ONF*
 - c. no greater than 10m high or the height of the existing structure*
 - d. no greater than 20% of the GFA of the existing lawfully established building or structure, and*
 - e. not replacing a pole with a pi pole*

Section 32AA evaluation

224. A section 32AA evaluation has been completed for NFL-R1 under Key Issue 17 below and is not repeated here.

6.2.16 Key Issue 16: Notes

Overview

Provision(s)	Officer Recommendation(s)
Notes	Amend Note 3 to include reference to the Ecosystem and Indigenous Biodiversity chapter.

Analysis of Submissions on Key Issue 16: Notes

Matters raised in submissions

225. Forest & Bird (S511.080) question why Note 3 refers only to the Earthworks chapter and consider that this is a mistake. They request Note 3 be amended



to refer to the Earthworks and Ecosystems and Indigenous Biodiversity Chapter.

Analysis

226. The 'Notes' section provides advice to readers on how the rules across the chapters are applied.

227. Note 3 reads as follows:

"The Earthworks chapter rules apply 'in addition' to the earthworks rules in this chapter, not instead of. In the event of a conflict between the earthworks chapter and this chapters earthworks rules, the most stringent rule will apply."

228. I consider that an amendment to advice Note 3 to also refer to the indigenous vegetation clearance thresholds in the Ecosystems and Indigenous Biodiversity chapter may be useful for some plan users. I therefore recommend that the submissions of Forest & Bird and Kapiro Conservation Trust are accepted, and advice Note 3 is amended accordingly.

229. I also recommend that the second part of the advice note, which states that the more stringent rule prevails, is deleted. In my opinion it oversimplifies how rules interact. It is better to be silent on the matter and rely on the guidance in the General approach chapter which explains how the rules are to be applied when multiple rules apply.

230. I understand similar submissions were made on the same note in the Coastal Environment chapter and the s42A reporting officer is making the same recommendation. There is also the same note in the Natural Character chapter which I am the reporting officer for, and I have recommended the same change.

Recommendation

231. That the submission from Forest & Bird is accepted and the following amendments are made to Note 3:

2. *"The Earthworks and Ecosystem and Indigenous Biodiversity chapter rules apply 'in addition' to the earthworks and indigenous vegetation clearance rules in this chapter, not instead of. In the event of a conflict between the earthworks chapter and this chapters earthworks rules, the most stringent rule will apply."*

Section 32AA evaluation

232. Section 32AA does not apply to the Notes section. Sections 32 and 32AA only apply to the evaluation of objectives and provisions.

6.2.17 Key Issue 17: NFL-R1



Overview

Provision(s)	Officer Recommendation(s)
NFL-R1	Numerous amendments.

Analysis of Submissions on Key Issue 17: NFL-R1

Matters raised in submissions

233. A number of submitters raised concerns with the 'workability' of NFL-R1 PER-1 and PER-2, which restrict the permitted area of new ancillary farming buildings to 25m², both within and outside the coastal environment. These thresholds mean that all other buildings not ancillary to farming require resource consent as a discretionary activity outside the coastal environment and a non-complying activity within the coastal environment.
234. Federated Farmers (S421.156) supports the recognition in rule NFL-R1 of the functional need for ancillary farming structures but requests that NFL-R1 PER-1 should be amended to 250m² to avoid the need for a large number of unnecessary consents.
235. Horticulture New Zealand (S159.061) request that NFL-R1 PER-2 should be increased to 100m².
236. William Goodfellow (S493.004), Philip Thornton (S496.003) and several other submitters with the same submission point, request that the provisions limiting the area of new buildings in ONLs be deleted as it is unnecessarily onerous.
237. Alec Jack (S277.016) oppose the exclusion of residential units and the maximum area of 25m² and seek that these requirements are deleted.
238. Bentzen Farm (S167.040) and five other submitters suggest several amendments to NFL-R1, including that:
- a. The maximum permitted area should be increased to 50m² under PER-1 and PER-2.
 - b. The building itself should be controlled under NFL-R1 rather than the use of the building.
 - c. The reference to 'ancillary to farming' is deleted.
 - d. A new PER-5 that enables one new residential unit per lot within ONLs and ONFs



- e. Where PER-1 to PER-4 cannot be complied with, it is requested that the activity be restricted discretionary and where PER-5 is not complied with, it be non-complying
239. David King (S46.002) also seeks the inclusion of residential units and associated earthworks as a permitted activity in NFL-R1 PER-2.
240. Ricky Faesen Kloet (S495.006) considers that the non-complying activity status applying to PER-2 is overly onerous and should be deleted.
241. Eric Kloet (S491.003) and Ironwood Trust (S492.003) among others also raise concerns that the provisions, particularly NFL-R1 PER-4, are unnecessarily onerous and inconsistent with the purpose of the RMA and request that NFL-R1 PER-4 is deleted.
242. Top Energy (S483.158) request that PER-1(1) also refer to "*a network utility*"; justifying the inclusion by saying that the section 32 analysis does not clearly express why the rule permits only ancillary farming structures. They argue electricity infrastructure is critical to farming operations, and therefore the permitted activity threshold should apply to network utilities as well. Transpower (S454.093) echoes similar concerns to Top Energy, requesting that PER-1(2) apply if "*The new building or structure is for infrastructure*" and the reference to ancillary farming activities is deleted. Further, Top Energy and Transpower question why PER-1(1) and PER-1(2) have the same thresholds.
243. Northland Planning and Development (S502.038) and Waitangi Limited (S503.020) support the provisions in part but, similar to other submitters, request that the provisions apply to more than just ancillary farming structures. They suggest the addition of "*a non-habitable building not ancillary to farming...*" to clause 2 of PER-1 and PER-2 to address this.

Analysis

PER-1 and PER-2

244. PER-1 and PER-2 apply to new buildings and structures and are identical other than PER-1 applies outside the coastal environment and PER-2 applies inside the coastal environment. The only reason for this separation is to allocate a different activity status for non-compliance with the condition – discretionary outside the coastal environment and non-complying inside the coastal environment.
245. In my opinion the structure of NFL-R1 would be improved if there was a single permitted rule for new buildings and structures, and the distinction between being within or outside the coastal environment is addressed in the descriptor for the discretionary and non-complying rules.



246. The MAL report considered the range of requested amendments to NFL-R1 (Appendix 3, Section 3.1A NFL-R1). I rely on this advice in determining the appropriate permitted activity thresholds for activities in ONLs. The following is a summary of the advice:
- a. The differentiation between residential buildings and those ancillary to farming is appropriate. Residential buildings have a greater potential impact on landscape values.
 - b. Other types of non-residential buildings may be acceptable. For example, a storage shed for a community or sports group which would unlikely create a domesticated landscape character.
 - c. Recommend the 25m² threshold is increased to 50m² in an ONL in the coastal environment to 100m² for ONL outside the coastal environment.
247. I note the MAL report advice only relates to ONL, not ONF.
248. In terms of the recommended differentiation between buildings ancillary to farming and residential units, I understand that the key concern relates to the more modified, complicated nature of residential units and the features typically associated with residential units such developed gardens, decks etc. I consider that this intent can be more effectively captured by amending PER-2 to require that the building or structure "*...is not used for a residential activity*" noting that residential activity is defined in the PDP (and National Planning Standards) as "*means the use of land and building(s) for people's living accommodation*".
249. I consider this is a clearer way to achieve the intent which also has the benefit of:
- a. Ensuring the rule captures all forms of residential activities which may be a minor residential unit, residential unit or other forms of accommodation such as visitor accommodation.
 - b. Does not inappropriately apply to/restrict other buildings and structures which are similar in nature, scale and effects to farm buildings. For example, a storage shed associated a community facility or boat shed.
250. Compared to ONL, ONF are generally smaller and confined to a discrete feature or group of features. The ONF methodology report⁹ notes that ONF are particularly sensitive to buildings and structures. The exception is within

⁹ Hayward, B. (2016). *Outstanding Natural Features Identifying and Mapping sites in Far North District Council: Methodology Report*.



a category 'A' ONF, which the ONF methodology report states "... are sufficiently large and robust to withstand moderate to small-scale... constructions without significant impact".¹⁰ None of the submitters have provided evidence that a building or structure greater than 25m² would be appropriate terms of the impact on ONF. Accordingly, I recommend retaining the 25m² for ONF, except for category 'A' where the threshold should be increased to match the proposed change for ONL (50m² in the coastal environment, and 100m² outside the coastal environment). I also recommend a note be added in the Notes section to guide readers how to determine the ONF category.

PER-3

251. PER-3 reads:

"Any extension to a lawfully established building or structure is no greater than 20% of the GFA of the existing lawfully established building or structure."

252. The rule only applies to extensions. In my opinion the rule should also include 'alteration'. This appears to have been anticipated in PER-4 (which refers to "...extension or alteration..."). I assume this was an error and recommend that it be corrected.

PER-4

253. PER-4 in my view is unnecessary. Rather than a standalone rule referring to the standards, the reference to the standards can be included in PER-1 and new PER-2. Its inclusion may create confusion as readers may not understand that they need to comply with either PER-1 or PER-2, but all activities need to comply with PER-4. This change can be made within the broad ambit of the wide-ranging submissions on NFL-R1.

Non-compliance with permitted conditions of NFL-R1

254. I agree with the submissions from Bentzen Farm Limited and others requesting that the activity status for non-compliance with the permitted activity conditions of NFL-R1 be a restricted discretionary – but only for activities outside the coastal environment.

255. I accept the argument that purpose of the NFL chapter is to manage adverse effects on ONL and ONF, and therefore if resource consent is required, discretion should be limited to effects on ONL and ONF. However, the other important factor in this context is the likelihood of activities requiring resource consent resulting in adverse effects beyond the 'bottom lines' set

¹⁰ As set out in the "Outstanding Natural Features identification and assessment criteria" in APP1, ONF are categorised based on their type and their vulnerability to 'human actions'.



by NFL-P2 (avoid adverse effects on ONL and ONF in the coastal environment) and NFL-P3 (avoid significant adverse effects on ONL and ONF outside the coastal environment).

256. Outside the coastal environment, if activities do not comply with the permitted activity thresholds, then in many instances activities still be able to avoid significant adverse effects (and meet the policy direction). The policy direction inside the coastal environment is to avoid all adverse effects on ONL and ONF. This is a considerably stricter requirement than to avoid significant adverse effects. If an activity does not comply with the permitted activity threshold, there is a reasonable likelihood it will not be able to avoid adverse effects (and be inconsistent with the policy direction).
257. For these reasons, it is my opinion that non-compliance with the NFL-R1 permitted conditions should be a restricted discretionary activity outside the coastal environment and a non-complying activity inside the coastal environment.
258. Submitters also made a similar request to change the activity status of equivalent rules in the Coastal Environment and Natural character chapters to restricted discretionary. I understand the same recommendation (to change to restricted discretionary) is also being made for the equivalent rules in these chapters.
259. I recommend the matters of discretion for the NFL-R1 restricted discretionary rule are limited to:
 - a. *effects on the characteristics, qualities and values that make ONL and ONF outstanding*
 - b. *The matters in NFL-P8.*
260. While technically "*the matters in NFL-P8*" come under the umbrella of "*effects on the characteristics, qualities and values that make ONL and ONF outstanding*", it is in my view helpful to point to NFL-P8 as a prescriptive list of assessment matters to be considered which in most (but potentially not all) cases covers the field of what needs to be assessed. An alternative approach would be to just refer to the matters in NFL-P8 (as advocated by Bentzen Farm Limited and others). My concern with this is there may be matters pertinent to considering effects on natural character in a particular context that are not included in NFL-P8. Including the broadly cast "*effects on the characteristics, qualities and values that make ONL and ONF outstanding*" specifically within the matters of discretion avoids this risk.
261. There is, in my view, also an issue about the scope to consider broader positive effects under the proposed restricted discretionary activity rule.



262. Restricted discretionary activities can only be declined based on adverse effects within the envelope of the matters of discretion. However, it is not so clear how the positive effects of a proposal are to be considered where these are not clearly covered by the relevant matters of discretion. My view is that if there are no positive effects explicitly listed in the matters of discretion, then a decision maker may not have scope to consider these. This may lead to an application being declined where it may otherwise be granted if the positive effects could have been considered – and this is clearly not the intention.
263. The matters of discretion for the proposed NFL-R1 restricted discretionary rule are constrained to effects on natural character based on my recommended amendment above. To avoid the risk as described in the previous paragraph, I recommend the addition of another matter of discretion: "*the positive effects of the activity*".
264. My recommendation to add the 'positive effects' matter of discretion is specific to the proposed NFL-R1 restricted discretionary activity rule outside the coastal environment. For other restricted discretionary activity rules, it may be that the matters of discretion are already sufficiently broad in relation to positive effect to not require it.
265. If my recommendation is accepted, then I note that this may have wider implications for restricted discretionary rules within the PDP in terms of how positive effects are included within the matters of discretion (as any inconsistencies could lead to interpretation issues). In my view, this wider rule drafting issue for the PDP should be considered further in Hearing 20 (General / miscellaneous / sweep up).

Recommendation

266. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and I recommend changes to NFL-R1 as set out in Appendix 1.1 (changes are not shown here as they are extensive).

Section 32AA evaluation

267. My recommended amendments to NFL-R1 are intended to address numerous concerns raised in submissions about the controls applying to buildings and structures in ONL and ONF being overly stringent. I consider that my recommended amendments to NFL-R1 more effectively strikes a balance between allowing some development without unduly impacting ONL and ONF. I consider the recommended amendments are an appropriate, effective and efficient way to achieve the relevant objectives and policies in terms of section 32AA of the RMA.

6.2.18 Key Issue 18: NFL-R2

Overview



Provision(s)	Officer Recommendation(s)
NFL-R2	Delete the rule.

Analysis of Submissions on Key Issue 18: NFL-R2

Matters raised in submissions

268. Top Energy (S483.159) and Alec Jack (S277.017) support NFL-R2 and seek that it is retained.
269. P S Yates Family Trust (S333.036) and another five submitters oppose NFL-R2 and request it is deleted. The submitters consider there is no need for a rule for the repair and maintenance of various features or structures (e.g. tracks, fences, roads) and they consider that these activities should be permitted.
270. Multiple submitters request additional activities to be included in the permitted list in NFL-R2. Federated Farmers (S421.157) seek that farming activities, emergency services and biosecurity works be added to PER-1. Waitangi Limited (S503.021) and Northland Planning and Development (S502.039) request the addition of carparking areas, boardwalks, boat ramps, and buildings or structures. Manulife Forest Management (160.022) request the inclusion of production forestry tracks as they consider it is not fair or equitable that farm tracks are included but not plantation forestry tracks.

Analysis

271. NFL-R2 includes PER-1, which reads:

"The repair or maintenance within wetland, lake and river margins of the following activities where they have been lawfully established and where the size, scale and materials used are like for like:

- 1. roads*
- 2. fences*
- 3. network utilities*
- 4. driveways and access*
- 5. walking tracks*
- 6. cycling tracks*
- 7. farming tracks"*

272. The activity status for activities not complying with PER-1 is discretionary.
273. A notable feature of the rule is it does not appear to achieve what was presumably intended, which is to provide some leniency for the repair



and maintenance of the listed structures and buildings. My reading of the rule is that it does the opposite.

274. The chapeau of the rule refers to the “following activities” – which means the rule does not apply to the repair and maintenance of other buildings of structures not on the list.
275. The General Approach chapter sets out how the rules in the overlay chapters (such as the NFL chapter) are applied:
- “Some of the Overlay chapters only include rules for certain types of activities (e.g. natural character, natural features and landscapes or coastal environment). If your proposed activity is within one of these overlays, but there are no overlay rules that are applicable to your activity, then your activity can be treated as a permitted activity under the Overlay Chapter unless stated otherwise.”*
276. It means non-compliance with NFL-R2 will only occur when the listed structures do not meet the requirements of being “...*lawfully established and where the size, scale and materials used are like for like.*”. It means the repair and maintenance of buildings and structures not listed are a permitted activity under the NFL chapter rules, and do not have the constraint of having to be lawfully established and like for like regarding the size, scale and materials used.
277. One argument is that the intent was to apply the constraints in the chapeau (of having to be lawfully established and like for like regarding the size, scale and materials used) to the listed buildings and structures – but, in my opinion, that does not make sense. There is no obvious reason why a greater level of constraint is put on the listed buildings and structures compared to other more prominent buildings and structures (e.g. houses, commercial buildings and bridges).
278. P S Yates Family Trust and other submitters raise concerns with NFL-R2 and other similar repair and maintenance rules in the PDP and seek that they are deleted. They suggest unforeseen consequences will result where classes of activities not listed will fall to discretionary. I read the rule in the opposite way – if an activity is not listed then the repair and maintenance would be permitted. If the rule was read the way the submitters read it, I agree there are likely to be many other activities for which repair and maintenance would be of a similar scale as for the activities listed.
279. It is my opinion that NFL-R2 should be deleted as it does not achieve the presumed intent and it is not necessary to achieve the NFL chapter objectives and policies.
280. If NFL-R2 is deleted there will be a consequential change to NFL-R3 as it references NFL-R2.



281. I have not assessed the requests for additional activities to be added to the list of activities permitted by PER-1 because I am recommending the rule be deleted. However, the activities listed are referred to under NFL-R3 and I have assessed their potential inclusion in “Key Issue 20: NFL-R3”.

Recommendation

282. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and NFL-R2 is deleted.

Section 32AA evaluation

283. NFL-R2 will, in my opinion, have perverse impacts that are likely to be the opposite of what was originally intended in drafting the rule (noting that it is not entirely clear from the notified drafting as to what the original intention of the rule was). The deletion of NFL-R2 will not result in additional adverse effects on ONL and ONF.

6.2.19 Key Issue 19: NFL-R3

Overview

Provision(s)	Officer Recommendation(s)
NFL-R3	Numerous changes – refer Appendix 1.1.

Analysis of Submissions on Key Issue 19: NFL-R3

Matters raised in submissions

284. Alec Jack (S277.018) supports NFL-R3 and seeks it is retained as notified. Horticulture New Zealand (S159.062) supports clearance of indigenous vegetation for biosecurity purposes and request that subsection 4 of PER-1 be retained.
285. Federated Farmers (S421.158) request farming activities, emergency services works, and works required for access be added to the permitted activity list. The submitter considers the “...activities that are important for the continued viability and operational level for both landowners and emergency services to carry out their duties”.
286. Bentzen Farm (S167.043), Matauri Trustee (S243.061), and several other submitters requesting similar relief, consider that, given the nature of the activities listed in PER-1, there should be no limit in the volume of earthworks associated with these activities. Further, these submitters contend that there should be more exceptions for normal farming and rural practices, especially given the broad nature of the definition of “earthworks”. As such, Bentzen Farm and others request that non-compliance with the rule should be a restricted discretionary activity.



287. Bentzen Farm (S167.044), Matauri Trustee (S243.062) and other similar submitters also request that NFL-R3 is deleted or alternatively, that NFL-R3 is amended so that farming is a permitted activity in the overlay.
288. Ricky Faesen Kloet (S495.012) consider that the non-complying activity status should be deleted from the rule.
289. Top Energy (S483.161) support NFL-R3 but seek that it be extended to provide for upgrading of electricity infrastructure, as provided for in the new rule sought by the submitter. Further, Top Energy request that PER-3 is deleted and PER-2 is relied on for activities both within and outside the coastal environment, noting that in both instances the same standard (NFL-S3) is referenced.
290. Forest & Bird (S511.081) and Kapiro Conservation Trust (S442.100) oppose NFL-R3 and request, in the first instance, that it be deleted. Alternatively, these submitters request that the rule is amended to include conditions that ensure compliance with the IB and earthworks rules. Forest & Bird contend that there is a risk that including NFL-R3 will lead to contradictions with the IB and Earthworks rules.

Analysis

PER-1 – additional activities

291. There is a long list of requested additions to PER-1.
292. Ultimately the test of whether each activity can be included is whether the activity will avoid adverse effects on ONL and ONF in the coastal environment and avoid significant adverse effects on ONL and ONF outside the coastal environment. However, there is an element of judgement involved in determining the level of associated adverse effects – any activity has the potential to exceed the adverse effects threshold in a particular circumstance. It would be artificial to apply a strict test of not permitting any activity if there is any chance of the adverse effects threshold being exceeded. I consider that the judgement as to whether an activity is included or excluded from the NFL-R3 PER-1 list is about the likelihood of the adverse effects thresholds being exceeded. Where the likelihood is low, then my view is it should be included and vice versa.
293. I have used following questions to assist with determining whether I support the inclusion of proposed additional activities to PER-1:
 - a. Is there a low likelihood of the proposed activity having an adverse effect on ONL or ONF above the adverse effect thresholds? (If no, then I tend to recommend excluding the activity).



- b. Are the effects of the activity on ONL and ONF likely to be the same or similar to activities already permitted? (If yes, then I am more likely to support inclusion as it is a guide on an acceptable level of effects).
- c. Is the activity described specific enough to be able to make a reasonable determination of the potential effects on ONL and ONF? (If the activity is cast broadly then I am more inclined to recommend excluding the activity from the list).
- d. Is the activity supported by other policies (for example infrastructure)? (If yes, then I apply a slightly less strict application of question a.)
- e. How critical is the activity for health and safety? (If critical, then I apply a slightly less strict application of question a.)

294. The following is my assessment of the proposed submitter additions to the list of permitted purposes in PER-1 (includes the additions proposed for NFL-R2):

Activity	Analysis
Farming activities Emergency services works Maintenance and repair of buildings or structures	These activities are broadly cast. I am not clear on what the potential scale of earthworks and or indigenous vegetation clearance might be under these activities, and without this understanding I am unable to recommend their inclusion. I recommend these activities <u>are not</u> included.
Biosecurity works	Already provided for in rule.
Maintenance and repair of carparking areas	The submitter (Waitangi Limited) provides no description of the nature of earthworks or indigenous vegetation clearance that may be required for the repair and maintenance of car parking areas. My concern is primarily with earthworks and/or vegetation clearance beyond the formed carpark. The words "carparking areas" could be interpreted to include areas adjacent to formed carparks. I have no concern with works within the formed carpark. Accordingly, I agree with the addition but refer to it as " <i>formed carparks</i> ".
Maintenance and repair of boardwalks and boat ramps	The extent of earthworks and/or indigenous clearance required to repair or maintain these structures would be of a similar scale to other structures already included. I recommend these activities <u>are</u> included.



<p>Maintenance and repair of production forestry tracks</p> <p>Plantation forestry activity generally</p>	<p>The proposed additions are not necessary.</p> <p>Earthworks and vegetation clearance for plantation forestry is addressed by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF).</p> <p>A rule in the district plan for earthworks and vegetation clearance cannot be more lenient than the NES-CF and can only be more stringent than the NES-CF in prescribed circumstances.</p> <p>I am recommending the inclusion of "tracks" to the rule. This is for any type of track and therefore would include plantation forestry tracks. Because the reference to "tracks" is sufficiently broad, in my opinion there is no need for a specific exclusion for plantation forestry tracks to address the NE-CF overlap.</p>
<p>Vegetation clearance required to establish or maintain a firebreak within 20m of a dwelling</p>	<p>I agree that the permitted activity condition should allow for indigenous vegetation clearance for the purposes of managing fire risk. I note PER-1 already allows vegetation clearance "<i>necessary to address a risk to public health and safety</i>". Arguably this would already allow vegetation clearance for managing fire risk, however I consider it would be helpful to provide certainty.</p> <p>I also note Fire and Emergency New Zealand can remove vegetation (or order it to be removed) in the event of an emergency or to reduce fire risk, as anticipated by sections 65 and 68 of the Fire and Emergency New Zealand Act 2017. (While Fire and Emergency New Zealand have not submitted on this rule, they submitted on the equivalent rule in the Natural Character chapter).</p> <p>I recommend the following additional wording:</p> <ul style="list-style-type: none"> • <i>to maintain firebreaks to manage fire risk; or</i> • <i>to remove vegetation as directed by Fire and Emergency New Zealand due to fire risk; or</i> • <i>to maintain a 20m setback from a building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area; or</i> <p>The recommended changes are consistent with recommended changes to the equivalent rules in the Natural Character and Coastal Environment</p>



	<p>chapters and will therefore ensure a consistent approach across the chapters.</p>
<p>Cultivation (for earthworks only) or domestic gardens</p>	<p>The definition of earthworks excludes cultivation and gardening. The rule will allow 50m² of indigenous vegetation clearance per year (assuming recommended changes are adopted), which in my view would accommodate most domestic gardens. I would also suggest there is more flexibility on the location of domestic gardens compared to other activities which are fixed or more constrained in their location.</p>
<p>For ecosystem protection, rehabilitation or restoration works</p>	<p>I am unclear as to the range of activities that would require earthworks and/or indigenous vegetation clearance and the level of potential effects beyond that already permitted. While I support the activities in principle, I do not support including a broadly worded allowance for these activities as there a risk of the rule being applied in unintended ways (e.g. arguing the removal of hectares of generating native scrub is for ecological restoration purposes).</p> <p>I recommend these activities <u>are not</u> included.</p>
<p>Maintenance or reinstatement of pasture where the vegetation to be cleared is less than 15 years old and less than 6m in height.</p>	<p>It is reasonably likely this activity would result in adverse effects well above the ONL and ONF adverse effect thresholds – particularly in the coastal environment.</p> <p>I recommend these activities <u>are not</u> included.</p>
<p>Vegetation clearance to maintain an existing driveway to a dwelling, within 5m of that driveway</p>	<p>The rule already provides for this.</p>
<p>Vegetation clearance as a strip of no more than 3.5m wide to construct new fences for the purpose of stock control or boundary delineation</p>	<p>I agree with the addition of this activity. Fences are necessary and there is often little flexibility on where they are located. A 3.5m width of vegetation clearance in most instances is unlikely to result in adverse effects above the ONL and ONF adverse effect thresholds. This is also supported by the MAL report (Appendix 3, section 4.9 NFL-R3 & CE-R3 Bentzen Farms Ltd).</p> <p>I recommend the following wording:</p> <p><u><i>"for the construction of a new fence where the purpose of the new fence is to exclude stock and/or pests from the area of indigenous</i></u></p>



	<u>vegetation provided that the clearance does not exceed 3.5m in width."</u>
Required for vegetation clearance within the legal width of an existing formed road	The rule already provides for this.
Access to activities permitted by the rule.	I do not agree with this addition. It is too broad, and it is not clear what situations would require new access to undertake vegetation clearance or earthworks for an activity permitted by the rule. Also, many of the activities listed are types of access (e.g. roads and driveways) or they are a linear activity (such as powerlines or fences) where access can be undertaken within the corridor of the linear activity. I recommend these activities <u>are not</u> included.
Upgrading of network utilities as allowed by submitter's (Top Energy) proposed new permitted activity rule for NFL-R1	I considered the submitters proposed new rule for NFL-R1 in Key Issue 17: NFL-R1, and recommend that a new rule be included to provide for upgrading of electricity network utilities. For the same reasons that I recommend the inclusion of this rule in NFL-R1, I also recommend allowing earthworks and indigenous vegetation clearance associated with this activity to be permitted in ONL and ONF. The recommend addition to PER-1 is: <u>"for any upgrade of existing above ground electricity network utilities permitted by NFL-R1."</u>

Public health and safety and biosecurity reasons

295. PER_1 includes the following two purposes:

- 5. *necessary to address a risk to public health and safety*
- 6. *for biosecurity reasons*

296. It would generally be indigenous vegetation clearance undertaken for these two purposes.

297. My concern is these reasons are broad, particularly as there is no upper limit, and could be used as a 'reason' for undertaking significant amounts of



indigenous vegetation clearance (and potentially earthworks) resulting in inappropriate adverse effects on ONL and ONF.

298. The same two purposes are also in the earthworks and indigenous vegetation clearance equivalent rules in the Indigenous biodiversity, Coastal environment and Natural character chapters.
299. The reporting officer for the Indigenous biodiversity chapter has considered several submissions that have requested refinements to the equivalent two clauses within rule IB-R1. The reporting officer recommends the equivalent two clauses in IB-R1 read:
- 1. to address an immediate necessary to address a risk to the health and safety of the public, or*
 - 4. clearance for the control pests for biosecurity reasons, or*
300. My recommendation is the same wording is adopted in NFL-R3 PER-1. This wording goes some way to addressing my concerns about the broadness of the clauses. The scope for the change comes from the Forest & Bird (S511.081) and Kapiro Conservation Trust (S442.100) submissions, which request that NFL-R1 is amended to include conditions that ensure compliance with the IB and earthworks rules. The recommended changes closer align NFL-R1 with IB-R1.

PER-2 and PER-3

301. The purpose of PER-2 and PER-3 is to allow earthworks and indigenous vegetation clearance where the associated activity is not provided for under PER-1 but it complies with the relevant standards (NFL-S3).
302. PER-2 and PER-3 are identical, except that PER-2 applies outside the coastal environment and PER-3 applies inside the coastal environment. The only reason for this separation is to allocate a different activity status for non-compliance with the condition – discretionary outside the coastal environment and non-complying within the coastal environment.
303. In my opinion, it would be more efficient and user friendly to delete PER-2 and PER-3 and to add compliance with NFL-S3 as an 'or' to PER-1. The distinction between the activity status for non-compliance both inside and outside the coastal environment should instead be addressed in the descriptor for the (restricted) discretionary and non-complying rules.
304. The scope for this change is provided as part of the broad ambit of submissions and through the request from Forest & Bird and Kapiro Conservation Trust to delete NFL-R3.

Other



- 305. I addressed Bentzen Farm Limited and others’ request to change the activity status for non-compliance with the permitted conditions to restricted discretionary under Key Issue 17: NFL-R1 above. For the same reasons I recommend that outside the coastal environment, the activity status be changed from discretionary to restricted discretionary but retaining the non-complying activity status within the coastal environment.
- 306. In respect to Forest & Bird and Kapiro Conservation Trust’s concerns that NFL-R3 would trump vegetation clearance and earthworks rules in other parts of the PDP, this is not the case. All permitted activity rules must be complied with for the activity to be permitted under the PDP.

Recommendation

- 307. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and I recommend changes to NFL-R3 as set out in Appendix 1.1 (changes are not shown here as they are extensive).

Section 32AA evaluation

- 308. The recommended additions to PER-1 are consistent with the NFL chapter objectives and policies and will reduce regulatory costs for those activities.
- 309. The deletion of PER-2 and PER-3, and the addition of compliance with NFL-S3 as an ‘or’ to PER-1 is more efficient and user friendly, and will not change the affect of the rules.
- 310. Changing the non-compliance with PER-1 for activities in ONF and ONL outside the coastal environment from discretionary to restricted-discretionary will have no change in potential impact on ONL and ONF and reduce costs for resource consent applicants.

6.2.20 Key Issue 20: NFL-R5

Overview

Provision(s)	Officer Recommendation(s)
NFL-R5	Amend rule to focus on “afforestation” and expand scope to cover carbon farming (“commercial forestry”)

Analysis of Submissions on Key Issue 20: NFL-R5

Matters raised in submissions

- 311. Ricky Faesen Kloet (S495.013) opposes the non-complying status applying to NFL-R5 and requests that it is deleted from the rule as it is onerous and contrary to the purpose of the RMA.



312. Alec Jack (S277.019) opposes the discretionary rule applying to plantation forestry activities because ruminant agriculture is under climate change pressures to switch land use into carbon sequestration. He considers that this rule will add complexity and expense to this desired land use change. Consequently, Alec Jack seeks amendment to NFL-R5 to replace the discretionary status to restricted discretionary status, with discretion restricted to effects only on NFL values.
313. Summit Forests New Zealand (S148.028) request NFL-R5 be deleted. The reason for this being that the provision does not apply equitably to all primary production activities and, where present, plantation forestry should be considered as a legitimate part of the landscape and provided for as a permitted activity subject to the provisions of the NES-PF. Manulife Forest Management (S160.023) and PF Olsen (S91.011) also request that NFL-R5 is deleted for similar reasons. PF Olsen request that a permitted activity status is inserted for existing plantation forests and associated activities.

Analysis

314. I consider that amendments are required to NFL-R5 to respond to three key issues:
- a. To capture 'carbon forestry', as requested in the submission by NRC and Tane's Tree Trust as discussed above in relation to the general submissions on the NFL chapter (Key Issue 1).
 - b. To align with the amendments to the NES-PF (now the NES-CF) that came into effect after the PDP was notified. The amendments in the NES-CF include extending its scope to cover carbon forestry (referred to as "exotic continuous-cover forestry") and to allow for plan rules to be more stringent to manage afforestation¹¹.
 - c. To address issues with the current drafting of NFL-R5 in that it could potentially cover existing plantation forestry and any plantation forestry activity as defined in the NES-CF (e.g. earthworks, harvesting etc.).
315. To address these issues, I recommend that NFL-R5 is amended to apply to the "afforestation" of "commercial forestry" with new definitions to align with the NES-CF ("afforestation", "commercial forestry" and "exotic continuous-cover forest"). In practical terms this would mean a non-complying activity consent is required for any new (exotic) carbon forestry and new plantation forestry in a ONL or ONF, which will ensure potential adverse effects can be appropriately managed. The NES-CF would then manage all other "commercial forestry activity" regulated in the NES-CF (earthworks,

¹¹ Regulation 6(4A) of the NES-CF.



harvesting etc.), which is consistent with the scheme of the NES-CF and the general relief sought in submissions from the forestry sector.

316. I have discussed the recommended amendments with the Coastal Environment chapter reporting officer as there is a similar rule in that chapter, and they are recommending the same amendments to the equivalent Coastal Environment chapter rule (CE-R6).

Recommendation

317. I recommend the submissions on NFL-R5 are accepted, accepted in part or rejected for the reasons set out above and that NFL-R6 is amended as follows:

~~Plantation forestry and plantation forestry activity~~ "Afforestation for commercial forestry.

Activity status: Discretionary where:

DIS-1

The afforestation ~~plantation forestry or plantation forestry activity~~ is located outside in the coastal environment."

318. I also recommend new definitions are added to the PDP for "*afforestation*", "*commercial forestry*" and "*exotic continuous-cover forest*"¹² that are aligned with the NES-CF.
319. Additionally, I recommend changes to advice Note 2, in the Notes section sitting above the NFL chapter rules:
- Consequential amendments to address the changes to the NES-PF (now NES-CF) and proposed changes to NFL-R5.
 - Replacing the reference to NFL-R5 with a more general reference to rules in this chapter, to recognise that the NFL chapter also includes rules that may have more stringent requirements (than the NES-CF) for commercial forestry related earthworks and indigenous vegetation clearance.

The National Environmental Standards for ~~Plantation Forestry Commercial Forestry 2017 (NES-PCF)~~ regulates ~~plantation commercial~~ forestry and Regulation 6 of the NES- ~~PCF~~ allows plan rules to be more stringent to protect ONF, ONL and give effect to

¹² Note that the PDP already includes a definition for plantation forestry based on the NES-CF definition.



Policy 15 of the NZCPS. Rule NFL-R5 Plantation forestry and plantation forestry activities in This chapter contains more stringent rules for commercial plantation forestry related earthworks, indigenous vegetation and afforestation activities in to ONL and ONF and prevails over the NES-PF regulations.

Section 32AA evaluation

320. The changes I recommend are intended to better align with new direction in the NES-CF and address the adverse effects of carbon farming in ONL and ONF alongside plantation forestry. The changes also focus on addressing the adverse effects of concern (i.e. new commercial forestry in ONL and ONF) rather than potentially applying NFL-R5 to all commercial forestry activities regulated under the NES-CF (which would result in conflict with the NES-CF and potentially significant consenting/compliance costs). In my view, these recommended amendments will be more effective in achieving the objectives as requiring resource consent for any new commercial forestry will more effectively target the adverse effects of concern in ONL and ONF. The amendments will also be more efficient in achieving the objectives by avoiding duplication/conflict with the NES-CF and removing/reducing unnecessary controls, constraints and compliance costs on existing commercial forestry.

6.2.21 Key Issue 21: NFL-R6

Overview

Provision(s)	Officer Recommendation(s)
NFL-R6	Amend rule to only apply to new farming activity on land not currently used for farming.

Analysis of Submissions on Key Issue 21: NFL-R6

Matters raised in submissions

321. Almost all submitters on NFL-R6 oppose the rule and seek either that it is deleted or the activity status for farming activities is changed to restricted discretionary to align with the intent of NFL-P4.
322. Federated Farmers (S421.159) and Alec Jack (S277.020) request NFL-R6 is deleted. Federated Farmers consider that it is illogical for the Council to require farmers to gain a resource consent if they are farming within an ONL or ONF that is located outside of the coastal environment. Alec Jack opposes the discretionary status applied to farming in the ONF (it is assumed the submitter is referring to the ONF on the submitters land). The submitter considers that the rule would cause unreasonable regulatory complexity and cost to their family business. Alec Jack notes that without farming, the area



would not be the fascinating landform that it is, and good farm management will preserve and enhance the area.

323. Horticulture New Zealand (S159.063) also contend that there should be a provision for rural production activities to occur as a permitted activity and that NFL-R6 should give effect to NFL-P4. They seek changes to NFL-R6 to address their concerns including the addition to PER-1 of '*The activity is existing lawfully established rural production activity*'. They also seek that the activity status where compliance is not achieved with PER-1 is amended to restricted discretionary, thereby deleting the discretionary and non-complying activity statuses relating to DIS-1. Ricky Faesen Kloet (S495.014) seeks deletion of the non-complying status also. Thomson Survey (S198.002) and Lynley Newport (S96.001) raise similar concerns and requests similar relief of a restricted discretionary activity status with the matters of discretion being related to the matters listed in NFL-P4 if the rule is not deleted.
324. Northland Planning and Development (S502.040) and Waitangi Limited (S503.022) also infer that NFL-R6 be deleted to remove the restriction on farming activities within ONLs and ONFs and align with NFL-P4.

Analysis

325. The effect of NFL-R6 is to make new farming activity in a ONL and ONF a discretionary and non-complying activity within and outside the coastal environment respectively. The rule does not affect existing farming activity, which can continue under existing use rights (as provided for by RMA section 10) – but only up to a point.
326. Farming is defined in the PDP as follows:

"means the use of land for the purpose of agricultural, pastoral, horticultural or apiculture activities, including accessory buildings, but excludes mining, quarrying, plantation forestry activities, intensive indoor primary production and processing activities.

Note: this definition is a subset of primary production."

327. The relevant part of RMA Section 10 is as follows:

10 Certain existing uses in relation to land protected

(1) *Land may be used in a manner that contravenes a rule in a district plan or proposed district plan if—*

(a) either—

(i) the use was lawfully established before the rule became operative or the proposed plan was notified; and



(ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:

(b) or—

(i) the use was lawfully established by way of a designation; and

(ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.

(Highlighted for emphasis)

328. While existing farming is not affected by NFL-R6, if there is a change to the character, intensity or scale of the farming activity then the rule would be triggered. An example is converting part of a pastoral farm to horticulture or conversely removing existing horticulture and converting it to pasture (both are 'farming' according to the PDP definition).
329. Mapped ONL and ONF regularly include areas of farming activity, and in the case of ONL is usually acknowledged in the worksheets.
330. The MAL report (Appendix 3, Section 4.1 Farming controls) considered the application of NFL-R6 in ONL. The report suggests a change of farming activity will generally not be a concern within an ONL and for those that may be of concern (such as a change from pasture to kiwifruit or blueberry production, which may adopt large shelter screens) other rules already address the aspects of concern - structures, earthworks and vegetation clearance).
331. The MAL report recognises that a change to farming from another type of land use (e.g. converting plantation forest to horticulture) is unlikely to be a common occurrence and that effects of concern (structures, earthworks and vegetation clearance) will also generally be covered by other rules. However, the MAL report also suggests that there may be situation where it may be useful to consider land-use change to farming through a resource consent process to consider effects on ONL values. Overall, the MAL report does not make a recommendation either way for whether resource consent should be required.
332. My view is that on balance NFL-R6 should be deleted. I cannot think of any realistic example of where there would be a change of land-use to farming that would a) not already require resource consent under another rule or b) result in greater adverse effects on ONL and ONF. Therefore, from a risk point of view, the likelihood of adverse effects on ONL and ONF arising is (very) low and the scale of effects if they were to arise is low. Accordingly, in my view the rule is unnecessary.



Recommendation

- 333. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and NFL-R6 is deleted.

Section 32AA evaluation

- 334. Deleting NFL-R6 removes an unnecessary restriction on farming activity and better gives effect to NFL-P4 while continuing to ensure NFL-P2 and NFL-P3 are given effect to.

6.2.22 Key Issue 22: NFL-R7

Overview

Provision(s)	Officer Recommendation(s)
NFL-R7	No change

Analysis of Submissions on Key Issue 22: NFL-R7

Matters raised in submissions

- 335. Forest & Bird (S511.082) and Kapiro Conservation Trust (S442.101) do not support the rule that enables the extension of mineral extraction activities in ONLs and ONFs as a discretionary activity. The submitters suggest the extension of such existing activities would more appropriately be non-complying in ONLs and prohibited in ONFs. They consider that, while ONLs may be able to absorb some further modification from mineral extraction activities, the same cannot be said for ONFs.
- 336. R Kloet (S495.015) requests removal of the non-complying activity status as it would limit the reasonable development of land.

Analysis

- 337. I agree with Forest & Bird and Kapiro Conservation Trust that ONF are more sensitive to mineral extraction activities than ONL. However, I do not believe this sensitivity is sufficient justification for extensions to mineral extraction activities being a prohibited activity. If there is an existing mineral extraction activity, then the ONF will have already been compromised to some extent. Also, a prohibited activity status would completely close the door on an extension of existing mineral extraction. Even small extensions (which may be able to manage effects appropriately) or extensions for extraction of minerals that provide significant economic and/or social benefit would be unable to be considered through a resource consent process if the activity status was prohibited, which I consider to be unduly stringent.
- 338. Given the different adverse effects thresholds for ONF and ONL outside and within the coastal environment, it is appropriate for extensions to mineral



extraction activities to be non-complying inside the coastal environment and discretionary outside the coastal environment.

Recommendation

339. I recommend that the submissions are rejected and no changes are made to NFL-R7.

Section 32AA evaluation

340. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

6.2.23 Key Issue 23: Standards

Overview

Provision(s)	Officer Recommendation(s)
NFL-S1	Numerous changes – refer Appendix 1.1.
NFL-S2	
NFL-S3	
Notes	

Analysis of Submissions on Key Issue 23: Standards

Matters raised in submissions

General Submissions on the Standards

- 341. Russell Protection Society (S179.079) support the standards and considers that the provisions adequately protect and provide for Russell.
- 342. Michael Winch (S67.038) supports the standards in respect of protecting natural landscape values and seeks that they are retained.
- 343. Twin Coast Cycle Trail (S425.036) consider that the provisions do not adequately provide for the maintenance, operation and upgrade of regionally significant infrastructure in accordance with the RPS. Twin Coast Cycle Trail request the provisions are amended to ensure regionally significant infrastructure is provided for.
- 344. Alec Jack (S277.021) requests that all three standards are amended to be more permissive.

NFL-S1 – Maximum height



345. Lynley Newport (S97.001) considers that the 5m maximum height limit could be increased to 6m without increasing the risk of visual impact and requests NFL-S1 is amended as such.
346. Mark Wyborn (S497.003), Ian Jepson (S494.003) and various other submitters consider that the imposition of controls to manage development in highly sensitive landscapes is inappropriate in this context and will make the reasonable use and development of property unfairly constrained. They seek to delete the provisions limiting the height of new buildings.
347. Submitters including The Shooting Box (S187.038) and Setar Thirty Six (S168.046) consider that the maximum height of 5m may not be appropriate in the circumstances and that this is best assessed at resource consent stage under NFL-R1. Further, the requirement to not exceed the height of the nearest ridgeline, head land or peninsula lacks precision and measurability. These submitters request that NFL-S1 is deleted.

NFL-S2 – Colours and materials

348. P S Yates Family Trust (S333.039), Setar Thirty Six (S168.047) and a number of other submitters request that NFL-S2 is amended to allow for natural materials. The submitters request that addition of *or are a natural finish stone or timber* to the end of clause 2 relating to exterior finishes of buildings.
349. Mark Wyborn (S497.004) and Ian Jepson (S494.005) along with a number of other submitters oppose the imposition of controls intended to manage development on the basis that they are inappropriate and unnecessarily constraining. They seek that the control of colours and reflectivity of new buildings in ONLs is removed.
350. Waitangi Limited (S503.023) and Northland Planning and Development (S502.041) have concerns with the reference to the BS5252 colour range in the standard, considering that it is outdated and provides an unfair trade advantage to Resene. To address this, these submitters seek deletion of NFL-S2(2) or alternatively, that the clause instead states "*If painted have an exterior finish within ... or equivalent product.*"
351. Horticulture New Zealand (S159.064) are concerned that this standard would limit the colour of cloth used in orchards and seeks an addition to NFL-S2 requiring that "*artificial crop protection structures are either dark green or black.*"

NFL-S3 – Earthworks or indigenous vegetation clearance

352. P S Yates Family Trust (S333.040) and five other submitters seek clarification as to what NFL-S3 applies to as the standard could be interpreted that only earthworks and vegetation clearance for the purpose of access and/or a building platform are permitted i.e., that they do not apply to farming



activities. It is assumed this concern is in reference to clause 4) which suggests that earthworks and vegetation clearance can only be undertaken "...for the purpose of access and/or a building platform...".

353. P S Yates Family Trust (S333.040) and five other submitters are also concerned about the use of the phrase '*over the life of the district plan*' as a compliance measure and request that this is changed to "*per calendar year.*" Further, they consider that screening should only be from public places and seeks that this is added to clause 3. These submitters also request that the provisions for cut height and fill depth be increased from 1m to 1.5m.
354. Waitangi Limited (S503.024) and Northland Planning and Development (S502.042) request that clause 1 of NFL-S3 be changed to increase the permitted amount of earthworks from 50m² to 100m² and that the measure be changed from "*over the life of the District Plan*" to *per calendar year*, outlining similar concerns as other submitters. For clarification, the submitters also request clause 4 is amended to read "*be for the purpose of establishing or maintaining an access and/or building platform, or undertaking or repair and maintenance activities which are not covered by NFL-R2.*"
355. Forest & Bird (S511.085) and Kapiro Conservation Trust (S442.104) seek that NFL-S3 is deleted in the first instance, or alternatively that it is amended to include conditions that ensure compliance with the IB and Earthworks rules for consistency and clarity.

Analysis

General Submissions on the Standards

356. I am unable to fully assess the Alec Jack submission as the submitter has not provided any detail on the changes sought that would address their concerns. However, in principle I do not agree that the standards need to be made more permissive, except where I have recommended specific changes to the standards below.
357. In respect to the Twin Coast Cycle Trail submission, I addressed a similar request from the submitter in 'Key Issue 6: Objectives'. For those same reasons I do not recommend any amendments to the standards in the NFL chapter in response to this submission.

NFL-S1 – Maximum height

358. NFL-S1 as notified reads:

Within ONL and ONF:



1. *The maximum height of any new building or structure above ground level is 5m and must not exceed the height of the nearest ridgeline, headland or peninsula.*
 2. *Any extension to a building or structure must not exceed the height of the existing building above ground level or exceed the height of the nearest ridgeline, headland or peninsula.*
359. I rely on the MAL report (Appendix 3, Section 4.3 NFL-S1 & CE-S1.1) for advice on an appropriate standard to manage height. The report concludes that a single storey building is an appropriate scale for a structure in a ONL or ONF under a permitted activity rule. In most cases, single storey buildings are less than 5m in height.
360. The MAL report includes a detailed discussion on the part of NFL-S1(2) that addresses the height of buildings and structures in relation to the nearest ridgeline, headland or peninsula. In summary, MAL concludes:
- Having been involved with the protection of ridgelines from inappropriate development for several decades, I am concerned that successfully including consideration of this complex matter as a standard for permitted activities is going to be difficult. Rather than adjusting the notified provision, I would recommend that consideration of the relationship of new development, either in the CE or in an ONL, with the local landform be a matter of discretion to be considered as part of a resource consent.*
361. Accordingly, I recommend the deletion of "...or exceed the height of the nearest ridgeline, headland or peninsula" from NFL-S1(2) and a new matter be added to NFL-P8 consideration policy as follows:
- "the visual effect of the building, structure or activity on nearby ridgelines, headlands or peninsula".*
362. The addition to NFL-P8 will ensure these effects can be specifically considered and managed where relevant when resource consent is required for non-compliance with NFL-S1.
363. Note, I have also recommended the addition of building area thresholds to NFL-S1 (new clause 3) in response to submission on NFL-R1 – refer Key Issue 17: NFL-R1.

NFL-S2 – Colours and materials

364. NFL-S2 reads:

Within ONL and ONF:

The exterior surfaces of buildings or structures shall:



1. *be constructed of materials and/or finished to achieve a reflectance value no greater than 30%.*
2. *have an exterior finish within Groups A, B or C as defined within the BS5252 standard colour palette.*

365. I understand the intent of the standard is to manage adverse effects of buildings and structures on the values of ONL and ONF. However, in my opinion there are some practical issues with NFL-S2 that need to be addressed, which have been highlighted in submissions. Those issue are:

- a. The application of NFL-S2 to existing buildings.
- b. The reference to the BS5252 standard colour palette and exterior finishes that are not painted.
- c. The application of NFL-S2 to structures.

366. I have sought advice from MAL on these matters, which is outlined in section 4.4 of the MAL report. In summary, the MAL report:

- a. Accepts that NFL-S2 should only apply to buildings (and not structures).
- b. Acknowledges that requiring alterations and extensions to comply with the NFL-S2 is unduly constraining and may not lead to a good outcome (i.e. if the existing building does not comply with the colour standard, then there is no point requiring the extension to comply).
- c. Agrees with submitters that NFL-S2 should allow for the use of natural materials on external surfaces and that it is not appropriate to require all external surfaces to be painted (which was not the intent). The MAL report recommends amendments to address this.
- d. Agrees with submitters that the reference to the use of the Resene BS5252 colour chart in the hyperlink from NFL-S2 is not appropriate as:
 - i. Resene are not the only paint manufacturer who produce paint that complies with the standards.
 - ii. The original BS5252 colour chart includes a whole range of colours which any paint manufacturer should be able to provide.
 - iii. The key requirement in NFL-S2 is that any colours used in these sensitive landscapes should have a reflectance value no greater than 30% and be drawn from Groups A, B or C within the BS5252 colour chart.



367. I agree with the MAL report conclusions and recommend the following changes accordingly:

The exterior surfaces of new buildings or structures shall:

- i. be constructed of natural materials and/or finished to achieve a reflectance value no greater than 30%.*
- ii. if the exterior surface is painted, have an exterior finish within Groups A, B or C as defined within the BS5252 standard colour palette in Appendix X.*

NFL-S3 – Earthworks or indigenous vegetation clearance thresholds

368. There are numerous submissions requesting changes to the area thresholds in NFL-S3, which reads:

"Any earthworks or indigenous vegetation clearance must (where relevant):

- 1. not exceed a total area of 50m² over the life of the District Plan."*

369. At a broad level, I share the concerns of submitters that these standards maybe overly restrictive and I also have some concerns about the workability and enforceability of thresholds that apply over "...the life of the District Plan".
370. I will first address the "...the life of the District Plan" timeframe, and then the area thresholds.
371. I am concerned that the "...the life of the District Plan" timeframe is too long and uncertain. While District Plan must be reviewed every 10 years, the reality is that a district plan can remain operative for much longer. Case in point is the operative Far North District Plan which is now 15 years old. In my view, it would be better to adopt a clearly prescribed timeframe. My recommendation is that where an allowable area of earthworks or indigenous vegetation clearance would otherwise be within "...the life of the District Plan", then it be changed to "...within any 10 year period".
372. There is a balance to be found in setting the timeframes for the allowable amount of earthworks or indigenous vegetation clearance. A longer timeframe allows for flexibility and a larger amount to be undertaken as a one-off, however determining non-compliance over a longer timeframe is (much) more challenging. In my opinion, an appropriate approach is to have a longer timeframe (i.e. 10 years) where the amount is small (err towards providing flexibility) and a shorter timeframe (i.e. one year) for larger amounts (err towards making it easier to determine non-compliance).
373. The MAL report considered these requests in respect to ONL (Appendix 3, Section 3.3 Earthworks and Vegetation Clearance Thresholds). In summary,



MAL is comfortable for the earthworks thresholds to be more generous but recommends retaining the notified vegetation clearance thresholds. The recommendations of the MAL are as follows (note – the MAL has used 10 years as a proxy for “...the life of the District Plan” timeframe):

	Earthworks in ONL	Indigenous vegetation clearance in ONL
<u>Within</u> the coastal environment	50m ² <u>per year</u> over 10 years	Retain 50m ² over 10 years
<u>Outside</u> the coastal environment	<u>100m² per year</u> 50m² over 10 years	

374. Based on the advice and recommendations from MAL, I recommend that NFL-S3 is amended to split out the controls for earthworks and indigenous vegetation clearance and amended in accordance with the recommendations as per the table in the preceding paragraph.
375. In terms of the thresholds for ONF, my view is that there should be a more nuanced approach to the earthworks and indigenous vegetation clearance thresholds to better reflect the vulnerability of the various types of ONF. As set out in the “*Outstanding Natural Features identification and assessment criteria*” in APP1, ONF are categorised based on their type and their vulnerability to ‘human actions’.
376. Based on the categories, I recommend the following:

ONF category	Earthworks in ONF	Indigenous vegetation clearance in ONF
B, C, D E F, V 'A' within the coastal environment	50m ² over the life of the District Plan <u>10 years</u>	50m ² over the life of the District Plan 100m ² per year
'A' outside the coastal environment	50m ² the life of the District Plan per year	

377. The thresholds for earthworks in my opinion are a better reflection of the risk on ONF. Categories ‘A’ and ‘D’ ONF are more resilient to earthworks than the other categories. Category ‘A’ and ‘D’ ONF are sufficiently large



and robust to withstand small-scale earthworks without significant impact, compared to the other ONF categories which are more sensitive to earthworks¹³. However, given the stringent 'bottom line' of avoiding adverse effects on ONF in the coastal environment, I recommend that the earthworks threshold is increased only for category 'A' ONF outside the coastal environment. I do not recommend including category 'D' ONF outside of the coastal environment because there are none (they are all within the coastal environment). There are only two category 'A' ONF outside the coastal environment – the Waimimiti scoria cones (ref no. 90) and Te Pua volcanic crater (ref no. 97), which are located close together near Ngawha.

378. The significant increase in the indigenous vegetation clearance thresholds reflects that indigenous vegetation clearance is a much lesser risk to ONF than earthworks, but still retains an element of protection where native vegetation may contribute to the ONF. While I would support a much higher threshold (e.g. up to 500m² per year outside the coastal environment) I am constrained to recommending the maximum requested by submitters - 100m² per year.
379. I am conscious my recommended changes to the standard for ONF will make for a more complex standard. However, on balance I am of the view that it is better to more accurately reflect the risks to ONF and adopt an approach that appropriately manages adverse effects on ONF while not unduly limiting development.

NFL-S3 – earthworks cut and fill height

380. Various submitters request that NFL-S3(2) be amended to increase the cut height and fill depth from 1m to 1.5m – it currently reads:

2. not exceed a cut height or fill depth of 1m."

381. This request was considered in the MAL report (Appendix 3, section 4.14). MAL recommended retaining 1m within ONL in the coastal environment and accepts and increase to 1.5m within ONL outside the coastal environment. MAL was concerned that:

"Such features can become a scar on the landscape which, in some of the more sensitive environments should be avoided. At the same time the creation of a hard edge to an area of either cut or fill can also create unnatural landforms that undermine landscape values."

¹³ Hayward, B. (2016). *Outstanding Natural Features Identifying and Mapping sites in Far North District Council: Methodology Report*.



382. I adopt MAL's advice for ONLs and recommend changes to the standard accordingly.
383. However, for the same reasons for my recommendations for the NFL-S3 earthworks threshold, my view is the 1m limitation should be retained for all ONF, except in category 'A' and 'D' ONF outside the coastal environment where I recommend it be increased to 1.5m.

NFL-S3 – screening

384. NFL-S3 (3) reads as follows:

"3. screen any exposed faces:

385. I agree with submissions seeking that screening should only be from public places (NFL-S3(3)). The MAL report supports this change on the basis the standard is intending to avoid scars on the landscape being visible to the public at large and that the additional words make this clear (Appendix 3, Section 3.3 Earthworks and Vegetation Clearance Thresholds). NFL-S3(3) would therefore read:

"screen any exposed faces visible from a public place"

NFL-S3 – other matters

386. I disagree with the submitters seeking the deletion of NFL-S3, or alternatively amending NFL-S3 to include standards to ensure compliance with the Indigenous Biodiversity and Earthworks rules. The Indigenous Biodiversity and Earthworks rules apply in addition to the NFL rules, therefore anyone undertaking earthworks or indigenous vegetation clearance in an ONL or ONF would need to comply with the NFL chapter rules AND the Indigenous Biodiversity and Earthworks chapter rules.
387. I agree with the concerns of P S Yates Family Trust and others about Clause 4) of NFL-S3. The clause as notified reads as follows:

"Be for the purpose of access and/or a building platform."

388. In my opinion clause 4) is unnecessarily restrictive. In practice, NFL-S3 applies if the earthworks or indigenous vegetation clearance is not for one of the purposes listed in NFL-R3 PER-1. There does not appear to be any policy or resource management reason to limit earthworks or indigenous vegetation clearance under NFL-S3 for the purpose of access or a building platform. The thresholds are small (even with recommended changes) and therefore the likelihood of undue adverse effects on ONL and ONF as a result of removing this limitation is, in my view, very low. Accordingly, I recommend it is deleted.
389. The last issue with NFL-S3 is the note, which as notified reads:



"Note: The NESF requires a 10m setback from any natural wetland in respect of earthworks or vegetation clearance and may require consent from the Regional Council."

390. I have two concerns with this note:
- a. The note is inaccurate in that the NES-F allows some types of earthworks and vegetation clearance (e.g. wetland restoration) within 10m of wetlands.
 - b. The inclusion of such wording in the standard is not consistent with the approach taken with other chapters, which is to highlight other applicable regulation in the 'Notes' preceding the rule. It also suggests that NES-F and regional plan may only apply to earthworks and vegetation clearance undertaken under NFL-S3, which is not the case.

391. Accordingly, I recommend deleting the note.

Recommendation

392. For the reasons above, I recommend:
- a. The submissions are rejected, accepted or accepted in part as set out in Appendix 2.
 - b. NFL-S1, NFL-S2, and NFL-S3 are amended, as set out in Appendix 1.1.

Section 32AA evaluation

393. I consider that my recommended amendments to NFL-S1, NFL-S2, and NFL-S3 are appropriate and in accordance with section 32AA of the RMA as these will make the standard more workable and efficient while also retaining the intent to manage the effects of buildings, earthworks and indigenous vegetation clearance on ONL and ONF.

6.2.24 Key Issue 24: SUB-R18

Overview

Provision(s)	Officer Recommendation(s)
SUB-R18	Amend to make it clear the rules only apply when one or more new allotments are created within ONL and ONF

Analysis of Submissions on Key Issue 24: SUB-R18

Matters raised in submissions



394. The DOC (S364.059) supports SUB-R18 and seeks that it is retained as notified.
395. Bentzen Farm (S167.060), Wendover Two (S222.054) and a number of other submitters support SUB-R18 in part but request an amendment so that the rules apply to the parts of a site that are within the NFL overlay and not the entire lot. These submitters note that on many sites the NFL overlay may only be on a small portion of the site and consider that subdivision of the balance of the site not covered by the NFL overlay should be able to occur in accordance with the standard subdivision provisions.

Analysis

396. SUB-R18 is located in the Subdivision chapter but is addressed within this section 42A report as the rules relate to subdivision within NFL overlays. The rule provides a more stringent activity status for subdivision than in the underlying zone, recognising the greater potential for adverse effects on ONL and ONF resulting from subdivision (particularly the associated land-use activities that go along with the subdivision). This approach has also been applied to wetland, lake and river margins and in the coastal environment.
397. I agree with Bentzen Farm and others that SUB-R18 should only be concerned with the creation of additional allotments within ONL and ONF.
398. I recommend SUB-18 be amended as follows:
"Subdivision creating one or more additional allotments of a site within ONL and ONF."
399. I have spoken with the Coastal Environment chapter s42A reporting officer and I understand they are making the same recommendation in respect to SUB-R20 and SUB-R21. I am the reporting officer for the Natural Character chapter s42A report and I have recommended the same amendment for SUB-R19.

Recommendation

400. For the reasons above, I recommend that submissions on SUB-R18 are accepted, accepted in part or rejected as set out in Appendix 2, and SUB-18 is amended as follows:

"Subdivision creating one or more additional allotments of a site within ONL and ONF."

Section 32AA evaluation

401. I consider that my recommended amendments to SUB-R18 are appropriate to achieve the objectives in accordance with section 32AA of the RMA. My recommended amendment retains the intent to ensure all relevant adverse



effects can be considered when subdivision is proposed in ONL and ONF, while ensuring the rules do not inadvertently apply to land not within a ONL or ONF, thereby achieving the desired outcome in a more efficient manner.

6.2.25 Key Issue 25: ONL and ONF overlays

Overview

Provision(s)	Officer Recommendation(s)
ONL and ONF overlays	No changes to overlays other than the removal of identified instances of plantation forest in ONL.

Analysis of Submissions on Key Issue 25: ONL and ONF Overlays

Matters raised in submissions

General

402. DOC (S364.078) supports the Council to identify, map and protect outstanding natural features, especially those within the Coastal Environment in line with the NZCPS. DOC seek that Schedule 5 is retained.
403. Two forestry submitters, Summit Forests New Zealand (S148.030, S148.031, and S148.053) and PF Olsen (S91.012 and S91.013), oppose the ONL and ONF overlay over existing areas of plantation forestry and consider that the provisions fail to provide equitably for all primary production activities. These submitters request that the overlay is deleted from all existing plantation forestry areas.

Location specific submissions - ONL

404. Denis and Jennifer Whooley (S75.001) consider that the photograph of 2195 Waikare Road, Russell that has been used to map the ONL on this property is "*woefully out of date*" and does not reflect several kilometres of roading within the overlay, acres of land clearance, buildings on the property, and resource consents for buildings not yet constructed. Consequently, the submitters request that ONL57 be deleted from 2195 Waikare Road.
405. Mark Wyborn (S497.002), Ian Jepson (S494.001) and Owen Burn (S490.002) all request to remove ONL from their properties within ONL49 at 187A Manawaora Road, Russell, 17B Jacks Bay Road (Lot 3 DP 48494) and 3A1 Orokawa Bay, respectively.
406. Ironwood Trust (S492.002) own several properties within ONL49 at Jack's Bay and Waipiro Bay and request the removal of the overlay from their properties. The submitter considers that their properties do not have outstanding natural qualities and seek to be able to continue to develop their land in a manner consistent with its current and future residential use.



407. Philip Thornton (S496.001) and Eric Kloet (S491.002) oppose the ONL overlay for their properties at Waipohutukawa Bay. The submitters request the ONL is deleted from these properties as they consider that their properties are within a developed and modified human landscape. These submitters consider that their properties are devoid of any landscape qualities that could be considered 'outstanding natural landscapes' and that the controls will make the reasonable use and development of their properties unfairly and unnecessarily constrained.
408. Ricky Kloet (S495.002) requests removal of the ONL overlay from Lot 6 DP 488661, Motuarohia Island. The submitter considers that the subject environment does not reflect the characteristics associated with ONLs. The submitter outlines that the aforementioned part of Motuarohia Island is largely developed and while these sites contain stands of bush, they are discontinuous and do not create a coherent landscape unit.
409. William Goodfellow (S493.001) highlights that much of the landholding to the east of their seven land parcels along Rawhiti Road is used for plantation forestry that has recently been harvested and land to the west subdivided, for future residential use. As such, the submitters requests that the ONL overlay is removed from their property, considering that *"the majority of the land is in reality devoid of any landscape qualities that could reasonably ... comprise an outstanding natural landscape."*
410. Amanda Kennedy, Julia Kennedy Till and Simon Till (S353.002) support the ONL mapping in part but request amendments to some parts of the ONL applying to Lot 1 DP 197131. The submitters state that their requested ONL overlay amendment better aligns with existing development and underlying characteristics and qualities of the site, that the approach proposed by the submitter is more consistent with high order RMA policies and plans, and is more consistent with the purpose and principles of the RMA.
411. Muriwhenua Inc. (S420.009) requests that the ONL classification is deleted from land within the submitters proposed Māori Purposes Rural Settlement Zone area and from that part of the Te Hāpua and Shenwood Forests that are greater than 500 metres from the coast.
412. Zeija Hu (S242.001 and S242.002) is concerned that the NFL provisions will have an impact on future development options for their property at 79C Peninsular Parade, Hihi and would make the property incapable of *"reasonable use and would place an unfair and unreasonable burden"* on them. The submitter requests the ONL and/or rules are amended to allow various activities (such as constructing a dwelling) as permitted or controlled activities.

Location specific submissions - ONF



413. Alec Jack (S277.024) requests amendment to the maps in relation to ONF91, "Pouerua (Pakaraka Mountain) scoria cone, lava field and lava-dammed lakes". The submitter claims Jack's Lake (which is included in the ONF) is not a natural feature as it is man-made and was created by Ned Jack in 1975 and funded by Fish and Game New Zealand (formerly the Acclimatization Society). The submitter also requests removal of the ONF overlay from their farmland immediately adjacent to Lake Owhareiti as they consider that farmland is not an Outstanding Natural Feature.
414. Muriwhenua Inc. (S420.007) requests that the ONF classification is deleted from the submitters' proposed Māori Purposes Rural Settlement Zone area and from that part of the Te Hāpua and Shenwood Forests that are greater than 500 meters from the coast.

Analysis

415. The following table assesses the submissions on the ONL and ONF overlay maps and makes recommendations in response to them. The MAL report has assessed all the ONL mapping submissions, and I rely on this advice in making my recommendations ONL (Appendix 3, MAL report, Section 2.2 Outstanding Natural Landscapes Overlay)

Submission	Analysis	Recommendation
Summit Forests New Zealand (S148.030, S148.031, and S148.053) PF Olsen (S91.012 and S91.013)	<p>In principle, the MAL Report agrees with the request of Summit Forests and PF Olsen to remove the ONL overlays from areas of existing plantation forestry. The MAL Report considers that plantation forestry areas do not have natural values worthy of protection. The MAL Report has identified 16 areas where the overlay appears to be over plantation forestry and supports the removal of the overlay from these areas.</p> <p>There are ONF that have plantation forest within them. For example, the Te Puke scoria cones located in plantation forest within the Waitangi Endowment Forest (according to the PDP aerial photography). ONF are identified for their geological or landform values, and the presence of plantation forest does not lessen these underlying values. Accordingly, I recommend no changes to the ONF maps in responses to these submitters.</p>	<p>Amend to remove the ONL overlay from the 16 areas specified in the MAL Report.</p> <p>No change to the ONF maps.</p>



Submission	Analysis	Recommendation
Denis and Jennifer Whooley (S75.001)	The MAL Report considers that the presence of roading through the property covered by ONL57 is not sufficient to undermine the overall values of the ONL and does not support the request to remove the ONL overlay.	No change.
Mark Wyborn (S497.002) Ian Jepson (S494.001) Owen Burn (S490.002)	The MAL Report disagrees that the presence of scattered houses within ONL49 is sufficient justification for the removal of the ONL overlay from the submitter's properties. The MAL Report therefore does not support the requests to remove the ONL overlay.	No change.
Ironwood Trustees (S492.002)	The submitter requests removal of the overlay from some of their landholdings at Jack's Bay within ONL49. The MAL Report outlines that the ONL does not cover the upper portions of the residential sections, leaving these roadside areas free of ONL constraints for the purposes of future residential development. Given the importance of the coastal vegetation and its contribution to the ONL, the MAL Report does not support the request to remove the ONL overlay.	No change.
Philip Thornton (S496.001) Eric Kloet (S491.002)	These two submissions relate to land covered by ONL49. The subdivision referred to by submitters is Omarino and includes the submitters' properties. The MAL Report details that it is clear from the description of the ONL worksheet that pockets of built development within the broader vegetative cover is characteristic of the landscape. Therefore, the MAL Report does not support the requests to remove the ONL overlay.	No change.
Rickey Kloet (S495.002)	This submission relates to a property within ONL43 on the southern coast of Motuarohia Island. The MAL Report comments that, having read the ONL worksheet for this area, the presence of the house and garden included in the submission is not sufficient to undermine the overall values identified in this ONL. As such, the MAL Report does not	No change.



Submission	Analysis	Recommendation
	support the request to remove the ONL overlay.	
William Goodfellow (S493.001)	The submitter requests removal of the ONL overlay from parts of their properties. The site was visited by MAL in March 2024, which confirmed that the cleared areas referred to by the submitter have been replanted with native vegetation. The MAL Report reviewed the worksheet for this ONL and is of the opinion that it accurately describes the existing situation on the property. Given this, the MAL Report does not support the request to remove the ONL overlay.	No change.
Amanda Kennedy, Julia Kennedy Till, Simon Till (S353.002)	The MAL Report does not consider that a conclusion can be reached on this submission until further information is provided by the submitters.	No change but the submitter is invited to provide further evidence at the hearing.
Muriwhenua Incorporated (S420.007 and S420.009)	<p>The MAL Report analyses the requests of this submitter to remove the ONL from those parts of their property outlined in their submission. The MAL Report concludes that there are no ONL overlays over the areas of concern to the submitter.</p> <p>Similarly, the parts of their property outlined in their submission do not appear to be overlain with ONF.</p> <p>I note the submitters broader concerns about utilising their land and rezoning will be addressed at a future hearing.</p>	No change.
Zeija Hu (S242.001)	The site identified by the submitter comprises both grassed areas and a bush clad valley with native vegetation along the coastal edge (see MAL Report for photograph). The MAL Report considers that the relationship between the two sides of the harbour entrance is an important component of the ONL. The MAL assessment concludes that retention of the ONL on the submitter’s property is justified and will ensure that any development	No change (to maps) – refer relevant key issues for recommendations on the non-complying activity status for residential units, associated earthworks and farming activities within ONL.



Submission	Analysis	Recommendation
	<p>proposed on this highly visible site will be carefully considered at the time of consenting.</p> <p>The submitter also raises concerns with the non-complying activity status for residential units, associated earthworks and farming activities within ONL. These are addressed in Key Issue 17: NFL-R1 (residential units), Key Issue 19: NFL-R3 (earthworks), and Key Issue 21: NFL-R6 (farming activities).</p>	
<p>Alec Jack (S277.024)</p>	<p>The submitter is concerned with the mapped extent of ONF91. In respect of Jacks Lake being an artificial lake, the submitter has not provided evidence of this in their submission but states they will provide evidence at the hearing. Once the evidence is received it can be assessed accordingly.</p> <p>In respect the submitter’s request to remove the farmland immediately adjacent to Lake Owhareiti, the submitter has not provided details on why it should be removed other than saying it is not an ONF and has not provided any map to indicate which parts of the ONF should be removed.</p>	<p>No change but the submitter is invited to provide further evidence at the hearing.</p>

Recommendation

416. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and instances where plantation forest was identified in the notified ONL overlay are removed, as set out in the MAL report (Appendix 3, 2.2A Forestry in ONL Overlays).

Section 32AA evaluation

417. I consider that the removal plantation forest from the ONL overlay is appropriate to achieve the objectives in accordance with section 32AA of the RMA. This change will not impact on ONL values and the appropriate management of effects on ONL. It will provide a benefit to plantation forest owners by removing unnecessary regulation and therefore avoiding unnecessary compliance costs.

7 Conclusion

418. This report has provided an assessment of submissions received in relation to NFL chapter. The primary amendments that I have recommended relate to:



- a. Amendments to the 'Overview' section, including removing a sentence suggesting that landscapes and features have been subject to minimal modification, and adding a sentence to acknowledge the role of landowners in preserving natural landscapes and features.
 - b. Replacing the two objectives with a single objective.
 - c. Changes to policies to make it clear that the focus is to manage effects on the characteristics, and qualities and values that make ONL and ONF outstanding.
 - d. Broadening NFL-P4 to recognise all lawfully established activities (not just farming activities)
 - e. Improving the wording on NFL-P6 to make to clearer how land use and subdivision within Māori Purpose zoned land and Treaty Settlement land is enabled
 - f. Deleting NFL-P7 and amending NFL-P8 to make clearer how the listed matters of concern for ONL and ONF are considered.
 - g. Various amendments to improve the 'Notes' section.
 - h. Significant changes to NFL-R1, NFL-R2, NFL-R3 and the associated standards to make less onerous while ensuring the effects on ONL and ONF are appropriately managed.
 - i. Amending NFL-R5 so it only applies to commercial forestry afforestation (and not plantation forestry activity).
 - j. Deleting NFL-R6 which requires resource consent for farming activity in ONL and ONF.
 - k. Amending SUB-R18 so it only applies if additional allotments are created within and ONL or ONF.
419. Section 6 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the NFL topic should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and/or Appendix 2.
420. I recommend that provisions for the NFL topic be amended as set out in Appendix 1.1 and 1.2 for the reasons set out in this report.
421. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.



Recommended by: Benjamin Michael Lee – Northland Planning Manager,
SLR Consulting

Approved by: James R Witham – Team Leader District Plan, Far North District
Council.

Date: 8 July 2024