

# SECTION 32 REPORT

## Natural Character

May 2022

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## 1 Executive Summary

The Far North District has a wealth of rivers and streams, lakes and wetlands. The health of these water bodies is vital to sustaining all kinds of life. Human activity can lead to contamination of the water, reduced water quantity and consequential loss of habitats. For example, nutrients and other material from urban and rural run-off can compromise water quality to the extent that they are no longer suitable for their indigenous aquatic ecosystems or water supply and have degraded aesthetic values. Lakes, rivers and wetland are currently controlled in Chapter 12 Natural and Physical Resources within the Operative District Plan (**ODP**).

The proposed management approach in the Proposed Far North District Plan (**PDP**) for the Natural Character chapter includes rules and standards that:

- Provide for limited development within wetland, lake and river margins, whilst preserving the characteristics and qualities that contribute to their natural character.
- Provide permitted activity rules that enable buildings and structures required for restoration and enhancement, natural hazard mitigation and parks facilities.
- Manage the height of buildings or structures as well as earthworks and indigenous vegetation clearance.
- Identify where compliance cannot be achieved with the permitted activity rules or standards, that resource consent is required as a discretionary or non-complying activity.

The main changes to the overall proposed management approach include:

- A dedicated chapter for the natural character of wetland, lake and river margins.
- Changes in language used within the provisions to give effect to higher order planning documents.
- The extent of wetland, lake and river margins are determined by a new definition in the PDP for 'wetland, lake and river margins' based on setbacks to wetlands, lakes and rivers for different zones.
- Provisions that align with the 'hybrid approach' of the PDP that focuses more on activity-based rules compared to the effects-based approach in the ODP.

## 2 Introduction and Purpose

### 2.1 Purpose of report

This report provides an evaluation undertaken by the Far North District Council (**Council**) in preparation of district plan provisions for the Natural Character chapter in the PDP. This assessment is required under section 32 of the Resource Management Act 1991 (**RMA**).

Section 32 of the RMA requires Councils to examine whether the proposed objectives are the most appropriate to achieve the purpose of the RMA and whether the provisions (i.e. policies, rules and standards) are the most appropriate way to achieve the objectives. This assessment must identify and assess environmental, economic, social, and cultural effects, benefits and costs anticipated from the implementation of the provisions. Section 32 evaluations represent an on-going process in RMA plan development and a further evaluation under section 32AA of the RMA is expected throughout the review process in response to submissions received following notification of the PDP.

This report sets out the issues for the Natural Character chapter, provides an overview of the statutory and policy context, and any specific consultation. The report also includes a review of the ODP and evaluation of alternatives to determine the most appropriate way(s) to achieve the purpose of the RMA in relation to the topic.

## 2.2 Overview of topic

Lakes, rivers, wetlands and the coastline are managed together in Chapter 12 of the ODP. While the provisions in the ODP are generally covered by those proposed in the PDP, they also incorporate provisions that manage public access and activities on the surface of water. The coastal environment, public access and activities on the surface of water are managed in their own chapters within the PDP in accordance with the National Planning Standards (**Planning Standards**).

The Northland Regional Council (**NRC**) and Council jointly share responsibility for water quality ensuring that pollution from non-point source discharges and stormwater is minimised. While the NRC is responsible for the control of discharges of contaminants to air, land and water, as well as the use of land and water for the maintenance and enhancement of water quality, Council has primary responsibility for the subdivision, use and development of land, and for the control of activities on the surface of water.

The change in provisions pertaining to the Natural Character chapter are part of a consolidated review of the Far North District Plan. The provisions proposed in this assessment have modified the existing provisions in the ODP to ensure the Natural Character provisions are consistent with the drafting of the PDP and the current policy environment, including the Regional Policy Statement for Northland (**RPS**).

Wetland, lake and river margins may also be subject to other District Wide Matters, including the protection of significant natural areas, outstanding natural features, outstanding natural landscapes and the coastal environment. These topics have been evaluated within separate section 32 reports. The proposed Natural Character provisions will not conflict with any other relevant District Wide Matter provisions.

## 3 Statutory and Policy Context

### 3.1 Resource Management Act 1991

The **Section 32 Overview Report** for the PDP provides a summary of the relevant statutory requirements in the RMA relevant to the PDP. This section provides a summary of the matters in Part 2 of the RMA (purpose and principles) of direct relevance to this topic.

Section 74(1) of the RMA states that district plans must be prepared in accordance with the provisions of Part 2. The purpose of the RMA is the sustainable management of natural and physical resources which is defined in section 5(2) of the RMA as:

*“...sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

To achieve the purpose of the RMA, all those exercising functions and powers under the RMA are required to:

- Recognise and provide for the matters of national importance identified in section 6
- Have particular regard to a range of other matters in section 7
- Take into account the principles of the Treaty of Waitangi in section 8 of the RMA.

The following section 6 matters are directly relevant to the Natural Character chapter:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

Section 6(a) is of primary relevance and specifically identifies the need to preserve the natural character of wetland, lake and river margins and protect them from inappropriate subdivision, use and development. Section 6(e) identifies the importance of the relationship Māori and their traditions have with water.

The following section 7 matters are directly relevant to the Natural Character chapter

- (a) Kaitiakitanga:
- (b) The efficient use and development of natural and physical resources:
- (c) The maintenance and enhancement of amenity values:
- (d) Intrinsic values of ecosystems:
- (f) Maintenance and enhancement of the quality of the environment:

Section 8 of the RMA requires that all persons exercising functions and powers under it take into account the principles of the Treaty of Waitangi, which have been considered in the preparation of the Natural Character chapter.

## 3.2 Higher order planning instruments

Section 75(3) of the RMA requires district plans to give effect to higher order planning instruments – National Policy Statement (**NPS**), National Planning Standards (**Planning Standards**), and the relevant Regional Policy Statement (**RPS**). The **Section 32 Overview Report** provides a more detailed summary of the relevant RMA higher order planning instruments relevant to the PDP. The sections below provide an overview of provisions in higher order planning instruments directly relevant to the Natural Character chapter.

### 3.2.1 National Planning Standards

Section 75(3)(ba) of the RMA requires that district plans give effect to the Planning Standards. The Planning Standards were gazetted in April 2019 and the purpose is to assist in achieving the purpose of the RMA and improve consistency in the structure, format and content of RMA plans. The following standards and directions in the Planning Standards are of direct relevance to the Natural Character chapter.

In accordance with Mandatory Direction 7.20, if provisions to protect the natural character of wetlands, lakes and rivers and their margins are addressed, they must be located in the Natural Character chapter.

### 3.2.2 National Policy Statements

Section 75(3)(a) of the RMA requires that district plans give effect to any NPS, and the NZCPS must be given effect to under section 75(3)(b).

The NZCPS is of some relevance as there are a number of rivers and streams that run to the coast and are located within the coastal environment, the NZCPS will therefore be relevant to those waterbodies but will afford protection from a 'coastal' perspective within the Coastal Environment chapter. Where wetlands, lakes or rivers are located in the coastal environment they are also subject to the coastal environment provisions and are addressed in the s32 evaluation report for the Coastal Environment chapter. Provisions within each respective chapter align and are referenced to ensure consistency across the PDP.

The National Policy Statement for Freshwater Management (**NPS-FM**) seeks to ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems
- (b) second, the health needs of people (such as drinking water)
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

The NRC has majority of the obligations under the NPS-FM. The NRC is responsible for the control of discharges of contaminants to air, land and water as well as the use of land and water for the maintenance and enhancement of water quality.

Clause 3.5.(4) of the NPS-FM requires territorial authorities include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments. Council has primary responsibility for the subdivision, use and development of land and can control land use and activities in the proximity of waterbodies that may influence water quality. Councils' functions assist in NRCs obligations for water quality management.

The NRC has not yet amended the RPS to give effect to the NPS-FM.

### 3.2.3 National Environmental Standards

Under section 74(1)(f) of the RMA, a district plan must be prepared in accordance with any regulations, which includes NES. Section 44A of the RMA requires local authorities to recognise NES by ensuring plan rules do not conflict with or duplicate provisions in a NES. The National Environmental Standard for Freshwater (**NES-F**) states in Regulation 5 that the regulations in the Standard do not deal with the functions of territorial authorities under section 31 of the RMA. As such there are no NES considered directly relevant to the consideration of the proposed Natural Character chapter.

### 3.2.4 Regional Policy Statement for Northland

Section 75(3)(c) of the RMA requires district plans to 'give effect' to any RPS. The RPS was made operative on 14 June 2018. The table below outlines the provisions in the RPS that are directly relevant to the Natural Character chapter.

RPS	
<b>Objective 3.1</b>	Integrated catchment management
<b>Objective 3.4</b>	Indigenous ecosystems and biodiversity
<b>Objective 3.13</b>	Natural hazard risk
<b>Objective 3.14</b>	Natural character, outstanding natural features, outstanding natural landscapes and historic heritage
<b>Objective 3.15</b>	Active Management
<b>Policy 4.6.1</b>	Managing effects on the characteristics and qualities natural character, natural features and landscapes
<b>Policy 4.7.1</b>	Promote active management
<b>Policy 4.7.2</b>	Support landowner and community efforts
<b>Policy 4.7.3</b>	Improving natural character
<b>Policy 5.1.1</b>	Planned and coordinated development

<b>Policy 7.1.1</b>	General risk management approach
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The RPS covers the management of natural and physical resources across the Northland Region. The provisions within the RPS give guidance at a higher planning level in terms of the significant regional issues.

In summary, the PDP approach gives effect to the relevant objectives and policies of the RPS through the following management measures:

- District wide provisions that direct the approach to the management of these nationally important natural environment values.
- Regulatory controls that provide for use, development and subdivision which should be designed, located and built in a planned and co-ordinated manner.
- Provisions that will ensure that the characteristics and qualities of wetland, lake and river margins are managed to ensure their long term preservation and protection, in doing so contributing to:
  - The water quality of the receiving waterbodies;
  - The maintenance and/or improvement of ecology around the margins of waterbodies; and
  - Management of natural hazard risk.

### 3.3 Regional Plan for Northland

Section 75(4)(b) of the RMA states that any district plan must not be inconsistent with a regional plan for any matter stated in section 30(1) of the RMA. Section 74(2)(a) of the RMA states that when preparing or changing a district plan, a territorial authority shall have regard to any proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4 of the RMA. The operative Northland Regional Plans and proposed Northland Regional Plan are summarised in the **Section 32 Overview Report**. The table below provides an overview of regional plan provisions directly relevant to the Natural Character chapter.

<b>Proposed Regional Plan</b>	
<b>Objective F.1.3</b>	Indigenous ecosystems and biodiversity
<b>Objective F.1.5</b>	Enabling economic well-being
<b>Objective F.1.10</b>	Natural hazard risk
<b>Objective F.1.12</b>	Natural character, outstanding natural features, historic heritage and places of significance to tangata whenua
<b>Policy D.2.1</b>	Rules for managing natural and physical resources
<b>Policy D.2.17</b>	Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features
<b>Policy D.2.18</b>	Managing adverse effects on indigenous biodiversity
<b>Policy D.2.20</b>	Precautionary approach to managing effects on significant indigenous biodiversity

The Proposed Regional Plan combines the operative Regional Plans (coastal, air quality, water and soil) into one plan. The provisions of the Proposed Regional Plan relating to land disturbance, stormwater discharges and vegetation clearance will be relevant for any proposed development. The relevant objectives and policies have been taken into consideration in the drafting of the Natural Character chapter.

### 3.4 Iwi and Hapū Environmental Management Plans

When preparing and changing district plans, Section 74(2A) of the RMA requires Council to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. At present there are 14 iwi planning documents accepted by Council which are set out and summarised in the **Section 32 Overview Report**.

The key issues in these plans that have been taken into account in the preparation of the provision for the Natural Character chapter are as follows:

- The restoration of ecosystem capacity;
- The protection of ancestral association with waterways;
- Reduced water quality through runoff, erosion and siltation of waterways.

Water is of particular importance to tangata whenua and poor water quality can negatively impact the ability to collect mahinga kai and harvest plant material for rongoa Māori. Water degradation comes in many forms including sediment from farming operations, sediment from forestry activities and poor stormwater controls through subdivision development.

The policy framework within the Natural Character chapter supports setback controls with limited opportunities for development to ensure the wetland, lake and river margins remain in a natural state and includes the provision of indigenous vegetation removal for the sustainable non-commercial harvest of rongoa Māori, maintaining customary access.

### 3.5 Other Legislation and Policy Documents

When preparing or changing a district plan, section 74(2)(b)(i) of the RMA requires Council to have regard to management plans and strategies prepared under other Acts to the extent that it has a bearing on resource management issues of the district. The **Section 32 Overview Report** provides a more detailed overview of strategies and plans prepared under legislation that are relevant to PDP. There are no other strategies or plans that are directly relevant to the Natural Character chapter.

## 4 Current State and Resource Management Issues

This section provides an overview of the relevant context for the current approach to manage Natural Character through the ODP, and key issues raised through consultation. It concludes with a summary of the key resource management issues for Natural Character to be addressed through the PDP.

### 4.1 Context

In the context of lakes, rivers, wetlands, the ODP chapter seeks to:

- Protect the amenity and spiritual values associated with the margins of lakes, rivers and wetlands from the adverse effects of subdivision, use and development.
- Secure access for māori to places of special value.
- Protect areas of indigenous riparian vegetation.
- Create, enhance and restore riparian margins.

The margins of wetlands, lakes and rivers are determined through setback controls from lakes, rivers and the coastal marine area in chapter 12.7.

### 4.2 Operative District Plan Approach

#### 4.2.1 Summary of current management approach

Control of wetlands, lakes, rivers and the coastline are contained within Chapter 12 Natural and Physical Resources of the ODP. This chapter not only addresses the natural character of wetland, lake



and river margins but also includes provisions for the coastline, public access and activities on the surface of water. The provisions of the ODP chapter generally seek to preserve, enhance and restore the natural character values of the waterbodies through controlling the proximity of land use activities.

The following summarises the current management approach:

- The relevant objectives, policies and provisions for Natural Character are contained within Part 3 – District wide provisions in Chapter 12 of the ODP.
- The chapter relies on consideration of Part 2 – Environmental Provisions and other chapters within Part 3 – District Wide Provisions.
- The provisions determine a setback distance for buildings and impermeable surfaces from waterbodies with a number of listed exceptions including the construction of river crossings, small pumphouses and maintenance, replacement and upgrading of linear infrastructure.
- Distance controls are applied for land use activities involving discharges of human sewage effluent.
- There is provision of a development bonus where permanent protection is provided by fencing or other means and the area is planted and maintained in indigenous vegetation.

#### 4.2.2 Limitation with current approach

The Council has reviewed the current ODP approach, which has been informed through technical advice, internal workshops and feedback from the community and stakeholder feedback.

Very few limitations with the current ODP approach have been identified through this process, those that have been identified include:

- The ODP groups a number of topics into the one chapter addressing the natural character of wetland, lake and river margins as well as provisions for the coastline, public access and activities on the surface of water. As such it does not align with the Planning Standards.
- The policy framework is not entirely consistent with the RPS in terms of avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects (including cumulative adverse effects) of subdivision, use and development on the characteristics and qualities of the natural character of freshwater bodies. This language stems from the Supreme Court's *King Salmon* decision<sup>1</sup>, which determines how policies are to be interpreted particularly where the word 'avoid' is used.

### 4.3 Key issues identified through consultation

The **Section 32 Overview Report** provides a detailed overview of the consultation and engagement Council has undertaken with tangata whenua, stakeholders and communities throughout the district to inform the development of the PDP and the key issues identified through this consultation and engagement. This section provides an overview of key issues raised through consultation in relation to the Natural Character chapter and a summary of advice received from iwi authorities.

#### 4.3.1 Summary of issue raised through consultation

There was a low level of interest in the Natural Character chapter from the community through consultation and engagement in the PDP process. Much of the feedback confused the natural character of the coastal environment, which is addressed in the Coastal Environment chapter, with the Natural Character chapter, which addresses the natural character of wetland, lake and river margins specifically in accordance with section 6 of the RMA.

Other issues identified through this process included:

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<sup>1</sup> SC 82/2013 [2014] NZSC 38 Environmental Defence Society Inc v New Zealand King Salmon Company Limited

- Feedback requesting better integration with the Ecosystems and Indigenous Biodiversity chapter ensuring there is consistency.
- Potential duplication of rules with the RPS and NES-F.
- Lack of policy direction in terms of what should be looked at and assessed in a site-specific resource consent application.
- Better recognition of the role of regional or critical infrastructure.

In response to the above:

- The standards for earthworks and indigenous vegetation have been amended to be consistent with other overlays in the PDP and with the NES-F. Specific reference and links have been made within the standard which will determine thresholds as they apply within the given overlays/chapters in the PDP.
- A new policy has been drafted, similar to other chapters in the PDP, which details matters to be addressed in a site specific assessment.
- Within new policy NATC-P6 recognition is now given to the functional need for any regionally significant or critical infrastructure in any assessment of a discretionary or non-complying activity.

#### 4.3.2 Summary of advice from iwi authorities

Section 32(4A)(a) of the RMA requires that evaluation reports include a summary of advice on a proposed plan received from iwi authorities. The **Section 32 Overview Report** provides an overview of the process to engage with tangata whenua and iwi authorities in the development of the PDP and key issues raised through that process. Six pieces of feedback were received in relation to the natural character of wetland, lake and river margins. In summary the feedback sought:

- Explicit exclusion of Māori land and Settlement land from the provisions.
- Inclusion of cultural processes.
- An assessment of natural character in relation to terrestrial ecosystems.
- Consistency with the NPS-FM and the accompanying NES-F.
- Further use of areas within the margins or wetlands, lakes and rivers for customary activities such as papakainga and nohoanga.

Section 3.4 above provided a summary of the key concerns and issues raised in hapū and iwi environmental management plans.

Section 5 of this report outlines how the proposed management approach responds to this advice in accordance with section 32(4A)(b) of the RMA.

#### 4.4 Summary of resource management issues

The topic itself has not been identified as a significant resource management issue (**SRMI**) in the development of the PDP. However, the following SRMI are considered to be of relevance to the natural character of wetland, lake and river margins:

- Partnerships with tangata whenua; and
- Indigenous biodiversity.

Based on the analysis of relevant context, current management approach, and feedback from consultation, the key resource management issues for this chapter to be addressed through the PDP are that:

- Appropriate measures are in place to ensure that land-based activities and increased sedimentation as a result of development do not adversely impact water quality or ecology.
- Land use and development is appropriately managed to protect the characteristics and qualities associated with the natural character of wetland, lake and river margins.

- Earthworks and indigenous vegetation clearance are managed to ensure it is only enabled in limited circumstances and is linked to other overlay provisions in the PDP to ensure their protection.
- Provision is made for cultural processes within wetland, lake and river margins.

## 5 Proposed District Plan Provisions

The proposed provisions are set out in the Natural Character chapter of the PDP. These provisions should be referred to in conjunction with this evaluation report.

### 5.1 Strategic objectives

The PDP includes a strategic direction section which is intended high level direction for the PDP and guidance on how best to implement the Council's community outcomes set out in Far North 2100 and its Long-Term Plan. The strategic objectives of direct relevance to the Natural Character chapter are:

Social prosperity:

- Objective 3: Encourage opportunities for fulfilment of our cultural, spiritual, environmental, and economic wellbeing.

Environmental prosperity:

- Objective 1: A culture of stewardship in the community that increases the District's biodiversity and environmental sustainability.
- Objective 3: Active management of ecosystems to protect, maintain and increase indigenous biodiversity for future generations.

### 5.2 Proposed management approach

This section provides a summary of the proposed management approach for the Natural Character chapter focusing on the key changes from the ODP. The **Section 32 Overview Report** outlines and evaluates general differences between the PDP provisions and ODP, includes moving from an effects-based plan to a 'hybrid plan' that includes effects and activities-based planning and an updated plan format and structure to align with the Planning Standards.

The main changes in the overall proposed management approach are:

- Unpacking the ODP chapter in terms of what it is controlling by creating a separate chapter addressing the natural character of wetland, lake and river margins.
- A clearer policy direction that gives effect to the higher order statutory documents.
- Better integration with other chapters in the PDP.
- More specificity in terms of what buildings and activities can be undertaken within wetland, lake and river margins.
- Additional control over building height.
- The extent of wetland, lake and river margins determined by a new definition in the PDP.

The sections below provide a high-level summary of the objectives, policies, and rules and other methods for the Natural Character chapter.

### 5.3 Summary of proposed objectives and provisions

This section provides a summary of the proposed objectives and provisions which are the focus of the section 32 evaluation in section 7 and 8 of this report.

### 5.3.1 Summary of objectives

The proposed management approach for the Natural Character chapter includes objectives that seek to ensure the long term preservation and protection of the natural character of wetland, lake and river margins while ensuring land use is consistent with the characteristics and qualities.

### 5.3.2 Summary of provisions

For the purposes of section 32 evaluations, 'provisions' are the "policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change".

The proposed management approach for Natural Character chapter includes policies that:

- Enable earthworks and indigenous vegetation clearance where it is for the purpose of existing infrastructure, public health and safety, biosecurity, non-commercial harvest for Rongoa Māori and the repair and maintenance of legally established activities.
- Provides for buildings and structures where there is a functional or operational need, it provides for public facilities, supports protection of natural character and where natural hazard risk will not be increased.
- Encourage the restoration and enhancement of wetland, lake and river margins.

The proposed management approach for the Natural Character chapter includes rules and standards that:

- Introduce a definition of 'wetland, lake and river margins' to determine their extent.
- Provides for limited buildings and structures within the margins of wetlands, lakes and rivers only where they are for restoration and enhancement purposes, natural hazard mitigation, parks facilities or furniture, fencing for the purpose of protecting the waterbody, river crossings, small pumphouses.
- Enable the repair and maintenance of legally established activities.
- Enable limited earthworks and indigenous vegetation clearance to support the repair and maintenance of legally established activities, powerlines, public health and safety, biosecurity and the sustainable non-commercial harvest of plant materials for Rongoa Māori.
- Apply a height limit to buildings or structures provided for within the rules.
- Apply thresholds for earthworks and indigenous vegetation clearance.

### 5.3.3 Responding to advice from iwi authorities

Section 32(4A) of the RMA requires evaluation reports to summarise advice received from iwi authorities on a proposed plan and the response to that advice, including any provisions that are intended to give effect to the advice. Section 4.3.2 of this report provides a summary of advice received from iwi authorities on the Natural Character chapter.

Te Runanga O Ngāti Rēhia provided feedback on the Draft District Plan Natural Character chapter, which it supported in principle. In short Te Runanga O Ngāti Rēhia provided the following feedback:

- *The provisions should be explicit to exclude Māori land and Settlement land as it restricts land use and subdivision. Ngāti Rēhia are the kaitiaki of the water resources within their rohe and consider that there should be an objective that focuses on the relationship of tangata whenua to their ancestral waterways and the maintenance of that relationship.* There is no clear direction through the RMA, NZCPS and RPS for the exclusion of and land, including Māori land (or Settlement land) to be excluded from the consideration of the natural character of wetland, lake and river margins. It is therefore considered outside the scope of what the District Plan can control. The Tangata whenua chapter in the Draft District Plan contains objectives and policies regarding the relationship of Māori with their ancestral lands, water sites, waahi tapu and other taonga.
- *The policy in relation to the provision of buildings and structures should include cultural purposes.* Policy NATC-P4 provides for buildings or structures, and extensions to existing

buildings or structures for the purpose of 'customary access'. In the absence of information regarding what 'cultural purposes' means, it is considered that buildings or structures associated with cultural purposes could be constructed provided it is consistent with the criteria in Appendix 1 in the PDP.

- *Māori land and settlement land should be excluded from the standard controlling earthworks and vegetation clearance.* There is no clear direction through the RMA, NZCPS and RPS for the exclusion of any land, including Māori land (or Settlement land) to be excluded from consideration when assessing activities that may affect the natural character of wetland, lake and river margins. Unfettered earthworks and vegetation clearance will need to be applied for through a resource consent to understand the effects on natural character. It is therefore considered outside the scope of what the District Plan can control.

Te Runanga O Te Rarawa provided the following feedback on the Draft District Plan Natural Character chapter:

- *Natural character should be addressed in terrestrial ecosystems.* The Draft District Plan is only concerned with terrestrial ecosystems insofar as this relates to the Natural Character chapter, as effects on waterbodies and the CMA are the jurisdiction of the Regional Council. The provision addresses the margins of wetlands, lakes and rivers, which are terrestrial. Further protection of ecosystems is provided in other sections of the Draft District Plan, including the Ecosystems and Indigenous Biodiversity chapter.
- *Ensure consistency with the NPS-FW and the NES-F. Further, particular consideration given to how effective consultation with tangata whenua can be applied to developments which have the potential to affect natural character values.* The NPS-FM has been considered as part of the Natural Character chapter in the Draft District Plan as far as it is relevant to its jurisdiction. Changes have been made to NATC-S2 to ensure consistency. Further, NATC-P6 has been created and includes consideration of the spiritual or cultural association held by tangata whenua and regard to the matters set out in Policy TW-P6 as part of a discretionary or non-complying consent application.

Kahukuraariki, Matauri X, Ngati Kuri, Ngai Takoto, Whaingaroa, Ngati Kuta, Te Aupori have provided the following feedback on the Draft District Plan Natural Character chapter:

- *The proposed plan does little in terms of rules that weave or understand how natural character areas may have been traditional papakainga, nohoanga, cultural or customary areas. The Plan does not promote customary activities within the margins of waterways.* There is an understanding of how natural character areas may have been utilised by Māori, that is why there are policies enabling harvesting of rongoa Māori and there is provision for customary access. Further, NATC-P6 has been created and includes consideration of the spiritual or cultural association held by tangata whenua and regard to the matters set out in Policy TW-P6 as part of a discretionary or non-complying consent application. The rules need to be limited in terms of what can be enabled as a permitted activity because the requirement is to preserve the natural character of wetland, lake and river margins.

Ngāti Kuri have provided the following feedback on the Draft District Plan Natural Character chapter:

- *The proposed Plan leans on a number of predecessor processes such as that associated with the Northland Regional Plan, Outstanding Natural Landscapes and Features, SNA's, Outstanding and High Natural Character to all create a narrative that is ostensibly for us. Outstanding landscape provisions are overlaid across our land with little or no cultural narrative from Ngāti Kuri. We are then expected to be subject to the narrative of others who have no historical or cultural connection to this land.* The preservation and protection of the natural character of the coastal environment and the protection of ONL and ONF is a requirement under section 6 of the RMA. These areas were mapped by the RPS in 2016 and the Council are required to give effect to this document. It is acknowledged that there is a

deficiency of Maori input into this mapping project. Objective 2 in the Coastal environment chapter has now been amended to include the recognition of tangata whenua needs for ancestral use of whenua Maori. Further, a new policy has been introduced to provide for the use of Māori Purpose zoned land and Treaty Settlement land in the coastal environment where land use and subdivision is consistent with the ancestral use of that land and does not compromise any identified characteristics and qualities.

Matauri X Incorporation have provided the following feedback on the Draft District Plan Natural Character chapter:

*MXI consists of a number of landholdings located directly adjacent to and adjoining the area well known as Matauri Bay. The landholdings are managed by the Proprietors of Matauri X Incorporation, which includes 7 Committee of Management membership. The legal description of the property is Lot 186 — 188, 190 & 193 DP 393364 and is held under ROT 374728 and Lot 1 & 2 DP 74547 held under NAIIOC/610. A copy of the Record of Title is attached and Attachment 2. The land is confirmed as Maori Freehold Title. MXI land is covered in a diverse range of vegetation from areas of substantial native bush through to exotic pine, wetlands and coastline areas. The site contains a number of papakainga dwellings, local church, campground and the Rainbow Warrior Monument. The most recent iteration of sites was created in 2008 and originated from several resource consent applications. These applications have resulted in instruments being attached to the title, such as; forestry rights, amalgamations, restrictive land covenants, Nga Whenua Rahui covenants, reserves and caveats. Overlain is the current District Plan regime. The site is 'split zoned' and includes land subject to the General Coastal, Coastal Living, Coastal Residential and Recreational Activities zones. Coastal flood hazards are recognised as impacting the site as well as areas of erosion prone land. A verified hazardous site is also located at/near the existing campground. The Northland Regional Council current considers the site as being within the Coastal Environment, with parts of the site being covered in areas of High Natural Character and Outstanding Landscapes. The site is subject to a number of Protected Natural Areas as mapped by the Department of Conservation. Nga Whenua Rahui covenanted areas also exist within and outside of these mapped protected areas. The area is relatively dense with archaeology given its historical maori occupation. A series of screenshots from various NRC and Council mapping systems are provided in Attachment 3. The purpose of highlighting these existing natural and legal constraints is to portray the existing range of environmental regulation that already applies to the landholdings to compare and contrast how the Proposed Far North District Plan will affect MXI with respect to the following specific activities: 50+ house papakainga development, viticulture, agriculture, apiculture, tourism, horticulture and associated buildings to support these. Access to water and carrying out activities using water. Giving effect to kaitiakitanga. The preservation and protection of the natural character of the coastal environment and the protection of ONL and ONF is a requirement under section 6 of the RMA. These areas were mapped by the RPS in 2016 and the Council are required to give effect to this document. It is acknowledged that there is a deficiency of Maori input into this mapping project. Objective 2 in the Coastal environment chapter has now been amended to include the recognition of tangata whenua needs for ancestral use of whenua Maori. Further, a new policy has been introduced to provide for the use of Māori Purpose zoned land and Treaty Settlement land in the coastal environment where land use and subdivision is consistent with the ancestral use of that land and does not compromise any identified characteristics and qualities.*

## **6 Approach to Evaluation**

### **6.1 Introduction**

The overarching purpose of section 32 of the RMA is to ensure all proposed statements, standards, regulations, plans or changes are robust, evidence-based and are the most appropriate, efficient and

effective means to achieve the purpose of the RMA. At a broad level, section 32 requires evaluation reports to:

- Examine whether the objectives in the proposal are the most appropriate to achieve the purpose of the RMA.
- Examine whether the provisions are the most appropriate way to achieve the objectives through identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions, including an assessment of environment, economic, social and cultural benefits and costs.

These steps are important to ensure transparent and robust decision-making and to ensure stakeholders and decision-makers can understand the rationale for the proposal. There are also requirements in section 32(4A) of the RMA to summarise advice received from iwi authorities on the proposal and the response to that advice through the provisions.

## 6.2 Evaluation of scale and significance

Section 32(1)(c) of the RMA requires that evaluation reports contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of this proposal. This step is important as it determine the level of detail required in the evaluation of objectives and provisions so that it is focused on key changes from the status quo.

The scale and significance of the environmental, economic, social and cultural effects of the provisions for the Natural Character chapter are evaluated in the table below.

Criteria	Comment	Assessment
Raises any principles of the Treaty of Waitangi	The principles of partnership, participation and protection have been taken into consideration in the drafting of the PDP provisions. Development within the margins of wetlands, lakes and rivers has the potential to generate adverse environmental and cultural effects on a range of Section 6 RMA matters as outlined in Section 3.1 of this report, however the potential for this has been reduced due to the conservative provisions within the Natural Character chapter and other overlays within the PDP that may apply.	Low
Degree of change from the Operative Plan	Natural Character will be provided for in the PDP in the District-Wide Matters section, consistent with the District-wide provisions in the ODP. Amendments have been made to reflect the Planning Standards and electronic plan format, as well as the required alignment with the RPS. Setback controls which determine the margins of wetlands, lakes and rivers now sit within a new definition in the PDP as opposed to the chapter controlling wetland, lake and river margins.	Low
Effects on matters of national importance	Natural Environment Value Overlays as well as the Coastal Environment may also apply to the margins of wetlands, lakes and rivers. These overlays will ensure heightened protection and management where applicable. The provisions	Low

Criteria	Comment	Assessment
	that relate to the Natural Character chapter are commensurate with those that apply to the Coastal Environment where not specifically identified as being of high or outstanding natural character.	
Scale of effects – geographically (local, district wide, regional, national).	The PDP approach essentially rolls over that applied in the ODP with some additional restrictions applied to ensure the protection of natural values in alignment with the RPS direction. The scale of effects is not likely to be any greater than that in the ODP, should the PDP approach be implemented it is considered to be low.	Low
Scale of people affected – current and future generations (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).	The scale of people affected by the proposed changes will generally be limited to current and future landowners. These landowners are currently affected by the ODP in a similar way.	Low
Scale of effects on those with specific interests, e.g., Tangata Whenua	As highlighted above the natural character provisions largely roll over the ODP approach and seek in part to protect the receiving waterbodies. The changes proposed will likely be of interest to the same owners and residents abutting wetlands, lakes and rivers as well as tangata whenua. As such, the scale of effects resulting from the change is deemed low.	Low
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice?	Overall, the PDP approach aligns with the Planning Standards and RPS, with many of the changes attributed to consequential format, structure and definition changes. Any assessment of natural character follows the same criteria as that located within the coastal environment making the approach consistent and easy to understand. As such, the approach is considered to pose low policy risk.	Low



### 6.3 Summary of scale and significance assessment

Overall, the scale and significance of the effects from the proposal is assessed as being low. Consequently, a low level of detail is appropriate for the evaluation of the objectives and provisions for the Natural Character chapter in accordance with section 32(1)(c) of the RMA. This evaluation focuses on key changes in the proposed management approach from the ODP - minor changes to provisions for clarification and to reflect new national and regional policy direction are not included in the evaluation in section 7 and 8 below.

## 7 Evaluation of Objectives

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. The assessment of the appropriateness of the objectives for the Natural Character chapter is against four criteria to test different aspects of ‘appropriateness’ as outlined below.

Criteria	Assessment
Relevance	<ul style="list-style-type: none"> <li>Is the objective directly related to a resource management issue?</li> <li>Is the objective focused on achieving the purpose of the RMA?</li> </ul>
Usefulness	<ul style="list-style-type: none"> <li>Will the objective help Council carry out its RMA functions?</li> <li>Does the objective provide clear direction to decision-makers?</li> </ul>
Reasonableness	<ul style="list-style-type: none"> <li>Can the objective be achieved without imposing unjustified high costs on Council, tangata whenua, stakeholders and the wider community?</li> </ul>
Achievability	<ul style="list-style-type: none"> <li>Can the objective be achieved by those responsible for implementation?</li> </ul>

Section 32 of the RMA encourages a holistic approach to assessing objectives rather than necessarily looking each objective individually. This recognises that the objectives of a proposal generally work inter-dependently to achieve the purpose of the RMA. As such, the objectives have been grouped in the evaluation below.

### 7.1 Evaluation of existing objectives

<b>Objective(s):</b>	
12.7.3.1 To avoid, remedy or mitigate adverse effects on riparian margins.	
12.7.3.2 To protect the values associated with the margins of lakes, rivers and wetlands through restoration/rehabilitation/revegetation.	
12.7.3.3 To provide public access to and along lakes and rivers to the extent that it is compatible with the protection of natural character.	
12.7.3.5 To avoid adverse effects from inappropriate use and development on the margins or lakes, rivers and indigenous wetlands.	
12.7.3.7 To create, enhance and restore riparian margins.	
<b>Relevance</b>	These objectives are relevant in that they provide for development but only where the development is carried out in a manner that recognises the natural character values of the environment. They provide for the on-going use, development and access where adverse effects are avoided and promote enhancement and restoration.
<b>Usefulness</b>	The objectives provide clear direction with respect to development to achieve the intended purpose of the zone.
<b>Reasonableness</b>	Costs associated with implementation will be generate by the requirement to apply for consent (on any future developer) and monitoring (on Council). The proposed

	objectives do not result in any un-justifiable costs given the natural character values of wetland, lake and river margins.
<b>Achievability</b>	The objectives and associated controls are achievable.
<b>Overall evaluation</b>	
The intent of these objectives are appropriate albeit they are repetitive and address topics that will be located in separate chapters of the PDP.	

## 7.2 Evaluation of proposed objectives

<b>Objective:</b>	
<b>NATC-O1</b> The natural character of wetland, lake and river margins are managed to ensure their long-term preservation and protection for current and future generations.	
<b>NATC-O2</b> Land use and subdivision is consistent with and does not compromise the characteristics and qualities of the natural character of wetland, lake and river margins.	
<b>Relevance</b>	These objectives are relevant through making the intent or outcomes clear in terms of what the chapter is seeking to achieve and considers when proposing land use or subdivision. In doing so it is not ruling out some land use provided that it is consistent and does not compromise that characteristics and qualities.
<b>Usefulness</b>	The objectives provide clear direction in terms of the intended purpose of the chapter and will give effect to the RPS.
<b>Reasonableness</b>	Costs associated with implementation will be generate by the requirement to apply for consent (on any future developer) and monitoring (on Council). The proposed objective does not result in any un-justifiable costs given the natural character values of wetland, lake and river margins.
<b>Achievability</b>	The objective and associated controls are achievable insofar that setbacks are a well-established method to manage activities near waterbodies and the zone chapters will consistently refer to this chapter to assist with implementation.
<b>Overall evaluation</b>	
The objectives address the resource management issues relevant to the preservation and protection of wetland, lake and river margins and sets the outcomes anticipated in the chapter in a way that is consistent with the plan structure required by the Planning Standards and provides improved alignment with RPS.	

## 8 Evaluation of Provisions to Achieve the Objectives

### 8.1 Introduction

Section 32(1)(b) of the RMA requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by:

- (i) *identifying other reasonably practicable options for achieving the objectives; and*
- (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) *summarising the reasons for deciding on the provisions.*

When assessing the efficiency and effectiveness of the provisions in achieving the objectives, section 32(2) of the RMA requires that the assessment:

*(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*

*(i) economic growth that are anticipated to be provided or reduced; and*

*(ii) employment that are anticipated to be provided or reduced; and*

*(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*

*(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

This section provides an assessment of reasonably practicable options and associated provisions (policies, rules and standards) for achieving the objectives in accordance with these requirements. This assessment of options is focused on the key changes from the status quo as outlined in the 'proposed management approach' in 5.2 of this report.

Each option is assessed in terms of the benefits, costs, and effectiveness and efficiency of the provisions, along with the risks of not acting or acting when information is uncertain or insufficient. For the purposes of this assessment:

- **effectiveness** assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issues
- **efficiency** measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

The sections below provide an assessment of options (and associated provisions) for achieving the objectives in accordance with sections 32(1)(b) and 32(2) of the RMA.

## **8.2 Quantification of benefits and costs**

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs (environmental, economic, social and cultural) of a proposal are quantified. The requirement to quantify benefits and costs if practicable recognises it is often difficult and, in some cases, inappropriate to quantify certain costs and benefits through section 32 evaluations, particularly those relating to non-market values.

As discussed in 6.2, the scale and significance of the effects of proposed changes for the Natural Character chapter are assessed as being low. Therefore, exact quantification of the benefits and costs of the different options to achieve the objectives is not considered to be necessary or practicable for this topic. Rather this evaluation focuses on providing a qualitative assessment of the environmental, economic, social and cultural benefits and costs anticipated from the provisions with some indicative quantitative benefits and costs provided where practicable.

## 8.3 Evaluation of options

### 8.3.1 Option 1: Status quo

<i>Option 1: The status quo, where the chapter also includes provisions that control the natural character of the coastal environment, the natural character of wetland, lake and river margins, public access and activities on the surface of water.</i>		
<b>Benefits</b>	<b>Costs</b>	<b>Risk of acting / not acting</b>
<ul style="list-style-type: none"> <li>The public and practitioners are familiar with the provisions in the ODP applied to the natural character of wetland, lake and river margins.</li> <li>The chapter would control other matters or topics that overlap with the preservation and protection of natural character of wetland, lake and river margins.</li> </ul>	<ul style="list-style-type: none"> <li>The PDP is instructed through the Planning Standards to control public access, activities on the surface of water and the coastal environment separately in the PDP.</li> <li>There would be duplication of provisions as a result of controlling public access, activities on the surface of water and the coastal environment in the same chapter.</li> <li>The provisions do not adequately give effect to the RPS.</li> <li>There would be inconsistencies with the NPS-FW and the NES-F.</li> </ul>	<ul style="list-style-type: none"> <li>The risk of acting is the potential unintended outcomes and confusion stemming from the duplication of provisions. Public access, activities on the surface of water and the coastal environment are now instructed through the Planning Standards to sit in other chapters of the PDP.</li> </ul>
<p><b>Effectiveness</b></p> <ul style="list-style-type: none"> <li>Retaining the existing approach could effectively achieve the outcomes sought for the natural character of wetland, lake and river margins. However, it would not achieve alignment with the Planning Standards and the recent direction identified in the RPS.</li> </ul>		<p><b>Efficiency</b></p> <ul style="list-style-type: none"> <li>Option 1 is not considered to be the most efficient approach. The PDP is required to have individual chapters for public access, activities on the surface of water and the coastal environment. Including all of these topics in the one chapter has the potential for confusion and duplication and would not give effect to the Planning Standards.</li> </ul>
<p><b>Overall evaluation</b></p> <p>On balance this option is not considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> <li>It is not the most efficient way to achieve the desired outcomes for the natural character of wetland, lake and river margins; and</li> <li>Grouping topics that are required to be addressed in individual chapters in the PDP would cause duplication and confusion.</li> </ul>		

### 8.3.2 Option 2: Natural Character chapter - Proposed approach

**Option 2:** Apply a Natural Character chapter preserving and protecting the natural character of wetland, lake and river margins in the Natural Environment Values section of the PDP.

The approach retains the majority of the ODP provisions in relation to wetland, lake and river margins while resolving implementation inconsistencies and ensuring compliance with Planning Standards and aligning with the direction of the RPS. The extent of margins is controlled by a new definition of wetland, lake and river margins as opposed to the being located within the natural character chapter.

<b>Benefits</b>	<b>Costs</b>	<b>Risk of acting / not acting</b>
<ul style="list-style-type: none"> <li>Introduces provisions that align with directions in the Planning Standards.</li> <li>Benefit may arise through a more simplified and concise approach to the control of wetland, lake and river margins.</li> <li>The RPS is given effect to by way of the better alignment with the policy framework.</li> <li>More specificity in terms of what buildings and activities can be undertaken within wetland, lake and river margins because of the hybrid PDP approach.</li> </ul>	<ul style="list-style-type: none"> <li>The public and practitioners are not familiar with the method for controlling margins through a definition of wetland, lake and river margins.</li> </ul>	<ul style="list-style-type: none"> <li>There is low risk associated with Option 2, the PDP Natural Character provisions along with the management measures afforded through the various overlays provides for a consistent implementation of the management approach in a way that aligns with the Planning Standards and the RPS.</li> </ul>
<p><b>Effectiveness</b></p> <ul style="list-style-type: none"> <li>The proposed rules and standards are effective as they recognise and provide appropriate protection of the natural character of wetland, lake and river margins, with relevant thresholds for the margins being identified through a definition for wetland, lake and river margins. This offers increased clarity and certainty for the developer and surrounding community.</li> </ul>		<p><b>Efficiency</b></p> <ul style="list-style-type: none"> <li>The proposed option is an efficient method of achieving the PDP Natural Character objectives. The provisions are a concise approach to the protection of wetland, lake and river margins and give effect to the Planning Standards.</li> </ul>
<p><b>Overall evaluation</b></p> <p>On balance this option is considered to be the most appropriate option to achieve the objective because:</p> <ul style="list-style-type: none"> <li>The proposed provisions are concise by only addressing the natural character of wetland, lake and river margins.</li> <li>The proposed provisions comply with the Planning Standards and electronic format of the PDP.</li> <li>The approach identifies the margins through a new definition for wetland, lake and river margins in the PDP.</li> <li>Consideration of the Natural Character chapter is triggered through the underlying zone.</li> <li>The approach ensures alignment with the direction of the RPS.</li> </ul>		

## 9 Summary

An evaluation of the proposed objectives and provisions for the Natural Character chapter has been carried out in accordance with section 32 of the RMA. This evaluation has concluded that the objectives are the most appropriate way to achieve the purpose of the RMA and the provisions are the most appropriate way to achieve the objectives for the following reasons:

- The Natural Character objectives give effect to Part 2 of the RMA and the relevant National and Regional Policy Statement policy direction.
- The Natural Character provisions combined with Overlays will ensure amenity values and qualities of surrounding environments are maintained with appropriate rules and standards that apply to the margins of wetlands, lakes and rivers.
- The Natural Character provisions will provide for an appropriate level of earthworks, indigenous vegetation clearance and development within the margins of wetlands, lakes and rivers.
- Where compliance cannot be achieved, resource consent as a discretionary or non-complying activity is required. This will ensure a suitable level of scrutiny can be applied when resource consent is sought for activities.

Overall, it is considered that the proposed provisions are the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions.