

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of the Proposed Porirua District Plan –
Hearing Stream 2.

**Statement Of Evidence of Joao Paulo Silva on Behalf of The Director-General of
Conservation**

15 October 2021

Department of Conservation

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1. INTRODUCTION

- 1.1 My name is Joao Paulo Silva, I hold the position of RMA Planner at the Department of Conservation / Te Papa Atawhai ("DOC"). I have held this position since July 2021, providing advice on plan reviews and resource consent applications.
- 1.2 I hold a Graduate Diploma of Environmental Planning from the University of Waikato and a Bachelor of Laws (LLB) from the Catholic University of Goias – Brazil. I have over two years' experience practising as a resource management planner.
- 1.3 I have previously worked for Matamata-Piako District Council for almost two years as a Graduate RMA Policy Planner. During this time, I worked on a variety of resource management matters including key involvement in preparing policy reports, and processing plan changes as part of the rolling review of the District Plan. I developed a good understanding of the planning framework from this work, which included developing, and implementing plan provisions. I have also been involved in consultation, notification, submissions, and one hearing process.
- 1.4 I record that while I am employed by the Department of Conservation, and the Department has an advocacy function under the Conservation Act 1987, my role in preparing this statement of evidence is as an independent planning expert. In my role with the Department, I am required to ensure that my advice is in accordance with recognised standards of integrity and professional competence. As well as having a duty to the Hearing Panel, I also have a duty to my profession. I am authorised by the Director-General of Conservation¹ to give evidence on this basis.

2. CODE OF CONDUCT

- 2.1 I confirm I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014. I have complied with the practice note when preparing my written statement of evidence and will do so when I give oral evidence before the Commissioners.

¹ Also referred as "DOC", "Director-General" and "D-G".

2.2 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence.

2.3 Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

3. SCOPE

3.1 I have been asked to provide planning evidence for Hearing Stream 2 for the Proposed Porirua District Plan. The scope of this evidence will be limited to the planning background regarding the submission points from the submission and further submission previously lodged by DOC and selected by Porirua City Council (PCC) to be heard in Hearing Stream 2, in accordance with the five Section 42A reports dated 24 September 2021 and listed below.

3.2 This evidence will specifically address the following issues:

- Provisions relating to the protection of wetlands, including controls for setbacks;
- Relationship between proposed rules ECO-R1, ECO-R2 and ECO-R3 – Submission point 126.19, seeking same rules applying for indigenous and non-indigenous vegetation removal;
- Amendment sought for ECO-P3 under submission point 126.12 - term “including” at the end of the chapeau be amended to “limited to”;
- Amendments to Policy ECO-P4 – Submission point 126.13;
- Lack of provisions for indigenous vegetation clearance outside overlay areas – Further submission point 39.16.
- Amendment to the definition of ‘significant natural area’ – further submission point 39.25, in support of submission point 126.3 from Queen Elizabeth II National Trust (QEII);
- Amendments to Policy ECO-P12 giving effect to the NZCPS – Further submission point 39.12, in support of submission point 225.134 from Forest and Bird;

- Exclusion of the term “from inappropriate use and development” from ECO-O1 – Further submission point 39.15, in support of 225.146 from Forest and Bird.
- Activity status amendment for Rule ECO-R9 from non-complying to discretionary – Further submission point 39.23 opposing submission point 11.46 from PCC.
- Amendments for vegetation clearance for new and upgrading walkways – Submission point 126.18.
- Introduction of two new objectives to Ecosystems and Indigenous Biodiversity – Further submission point 39.16 in support of submission point 225.147 from Forest and Bird.
- Amendments to rule NFL-R2 and standard NFL-S2 – Submission point 126.33.

3.3 To inform this statement of evidence, I have read the notified plan change documents, including the Section 32A evaluation report dated August 2020, the Section 42A report dated 27 August 2021, and the five Section 42A reports all dated 24 September 2021 listed as it follows:

- Section 42A Report – Part B - Natural Character Chapter and Public Access Chapter
- Section 42A Report - Part B - Natural Environment Strategic Objectives
- Section 42A Report - Part B - Ecosystems and Indigenous Biodiversity
- Section 42A Report - Part B - Natural Features and Landscapes
- Section 42A Report - Part B - Tangata Whenua Strategic Objectives and Papakāinga

3.4 In preparing my evidence I have relied on the statement of evidence prepared by Mr Graeme La Cock, regarding indigenous biodiversity.

4. EXECUTIVE SUMMARY

4.1 The Director-General of Conservation’s submission and further submission raised a range of points regarding the notified PPDP and submissions. Some of the points, subject to this evidence and Hearing Stream 2 are listed in para 3.2.

4.2 However, my evidence has a focus on the points of concern listed below as I believe these have not been sufficiently addressed through the recommendations provided with the Section 42A officer's report.

4.3 It is my opinion that:

- (a) The PPDP should require setbacks from wetlands, in order to provide further protection to wetlands;
- (b) An advice note should be included to clarify the relationship between rules ECO-R1, ECO-R2 and ECO-R3;
- (c) The term 'including' in Policy ECO-P3 should be amended to 'limited to', in order to achieve better certainty by avoiding a non-exhaustive list of activities;
- (d) Policy ECO-P4 should be amended, as in my view parts of it will not achieve its purpose;
- (e) There is a lack of provisions for indigenous vegetation clearance outside of SNAs;
- (f) The definition of 'significant natural area' should be amended to include SNAs identified during the life of the plan;
- (g) The term "from inappropriate use and development" should be excluded from ECO-O1 to give effect to Section 6(c) of the RMA;
- (h) Rule ECO-R9 should remain as notified – having non-complying activity status;
- (i) When appropriate, amendments for vegetation clearance for new and upgrading walkways should be considered;
- (j) Two new objectives relating to Ecosystems and Indigenous Biodiversity should be introduced – Further submission point 39.16 in support of submission point 225.147 from Forest and Bird; and
- (k) Amendments to rule NFL-R2 and standard NFL-S2 should be considered – Submission point 126.33

4.4 Appendix A of my evidence provides a summary of D-G's submission and further submission, and Appendix B provides a table with my proposed amendments and additions.

5. HIGHER ORDER STATUTORY DOCUMENTS

5.1 The Proposed Porirua District Plan (PPDP) must give effect to higher order statutory documents, including National Policy Statements and the Greater Wellington Regional Policy Statement (RPS).

Resource Management Act 1991

5.2 The district plan must achieve the purpose of the RMA and assist the territorial authority in achieving its functions. Decisions on proposed plans must be informed by the analysis required in section 32 to ensure they are the most effective and efficient way of achieving the purpose of the Act. Territorial authorities are responsible for the development, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.² Territorial authorities are also responsible for the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biological diversity³.

5.3 In addition to section 5 of the Act, and not precluding consideration of other aspects of Part 2 of the RMA, my evidence acknowledges Section 6 (a) and (c) as well as Section 7 (f) of the RMA:

- *preservation of the natural character of the coastal environment...wetlands, and lakes and rivers and their margins..'* (s6(a));
- *recognise and provide for, as a matter of national importance, the protection of areas of significant indigenous vegetation.... (from s6(c));*
and
- *'maintenance and enhancement of the quality of the environment'* (s7(f)).

² RMA 1991 s31(1)(a)

³ RMA 1991 s31(1)(b)(iii)

- 5.4 My evidence also acknowledges Section 104D of the RMA, which sets the gateway test to be applied by consenting authorities when assessing applications for non-complying activities:

“104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.”⁴

National Environmental Standards for Freshwater Regulations 2020

- 5.5 The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) introduces new minimum standards and controls on multiple land use activities. The Regulations came into force on 3 September 2020 and allow rules in both regional and district plans or resource consents to be more stringent than the NES-F⁵.
- 5.6 The NES-F provides a non-complying activity status to any vegetation clearance within a 10m setback from a natural wetland, earthworks of any nature within a 10m setback from a natural wetland and the taking, use, damming, diversion or discharge of water within a 100m setback from a natural wetland.⁶

⁴ RMA 1991 s104 (D)

⁵ NES-F Regulation 6(1).

⁶ NES-F Regulation 54(a), (b) &(c)

National Policy Statement Freshwater Management 2020

- 5.7 The NPS Freshwater 2020 (NPS-FM 2020) came into force on 3 September 2020 and requires local authorities to give effect to the NPS-FM *“as soon as practicable”*⁷
- 5.8 Part 2.1 of the NPS-FM 2020 provides that the objective of the NPS-FM 2020, is firstly that natural and physical freshwater resources are managed in a way that prioritises the health and well-being of water bodies and freshwater ecosystems.
- 5.9 Local authorities must adopt an integrated management approach to freshwater management, requiring them to recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments. They must manage freshwater, land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.⁸
- 5.10 The NPS-FM 2020 also provides that *“in order to give effect to this National Policy Statement, local authorities that share jurisdiction over a catchment must co-operate in the integrated management of the effects of land use and development on freshwater.”*⁹
- 5.11 Territorial authorities are required to include objectives, policies, and methods in their district plans 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.’*¹⁰
- 5.12 The policies that I list below are those, in my opinion, which most clearly underpin the NPS-FM 2020’s objectives of preventing further loss of natural wetlands and protecting the unique ecological values they hold through an integrated management approach led by the Greater Wellington Regional

⁷ NPS-FM 2020 Part 4 s4.1(1)

⁸ NPS-FM 2020 s3.5(1)(c)

⁹ NPS-FM 2020 S3.5(3)

¹⁰ NPS-FM 2020 S3.5(4)

Council (GWRC) but equally supported by the plans and provisions of territorial authorities such as Porirua City Council (PCC):

- *‘Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.’ Policy 3 NPS-FM 2020;*
- *‘There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.’ Policy 6 NPS-FM 2020;*
- *‘The significant values of outstanding water bodies are protected.’ Policy 8 NPS-FM 2020; and*
- *‘The habitats of indigenous freshwater species are protected.’ Policy 9 NPS-FM 2020.*

5.13 For clarity, a natural wetland is defined within the NPS-FM 2020 to mean:

“a wetland (as defined in the Act) that is not:

(a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or

(b) a geothermal wetland; or

(c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain derived water pooling.”¹¹

Greater Wellington Regional Policy Statement

5.14 Objective 12 (in Part 3.4 Freshwater) provides that the quantity and quality of fresh water safeguards the life supporting capacity of water bodies. This can be achieved by minimising the effects of earthworks and vegetation clearance (policy 15). This is to be led through both regional and district plan provisions.

5.15 The RPS provides an objective aimed at ensuring wetlands continue to support healthy functioning ecosystems.¹² It acknowledges the need to take a holistic whole catchment approach to managing these resources and includes city and

¹¹ NPS-FM 2020 s3.21

¹² RPS S3.4 Objective 13

district councils within the lead implantation authorities to coordinate protections.

- 5.16 Policy 23 *'identifying indigenous ecosystems and habitats with significant indigenous biodiversity values'* and policy 24 *'protecting indigenous ecosystems and habitats with significant indigenous biodiversity values'* are both acknowledged as being shared functions of the regional and territorial authorities.
- 5.17 Within the explanation of policy 23 it is stated that *'District plans will identify indigenous ecosystems and habitats with significant biodiversity values for all land, except the coastal marine area and the beds of lakes and rivers.'* While Regional Councils are required to identify wetlands through policy 61, the responsibilities of territorial authorities do not explicitly exclude wetlands.
- 5.18 Policy 61, titled "Allocation of responsibilities for land use controls for indigenous biodiversity" further reinforces the shared responsibility for identifying wetlands through the repeated lack of exclusion for wetlands within territorial responsibilities. Policy 61 states that GWRC has the 'primary' responsibility in maintaining and enhancing wetlands, it is fundamental in understanding the basis of an integrated approach that primary not be interpreted as sole responsibility.

6. POINTS OF AGREEMENT WITH SECTION 42A REPORT RECOMENDATIONS

- 6.1 This section sets out the points I agree with in the officer's report recommendations.
- 6.2 I agree with the recommendations proposed for:
- (a) Submission point 126.9 - seeks changes to ECO-O2;¹³
 - (b) Submission point 126.23 - seeks that ECO-R7 be deleted.¹⁴;
 - (c) Further submission 39.12 in support of 225.164 (Forest & Bird) - seeks that ECO-P12 be deleted in its entirety – please see para 8.38;

¹³ S42A Report – Part B – Ecosystems and Indigenous Biodiversity para 274.

¹⁴ S42A Report – Part B – Ecosystems and Indigenous Biodiversity para 470.

- (d) Further submission 39.27 opposing 262.18 Fulton Hogan - seeks this submission point is disallowed.¹⁵
- (e) Further submission 39.31 opposing 262.24 Fulton Hogan NFL-R9 - request a change in activity status from discretionary to restricted discretionary.¹⁶

7. RESPONSE TO THE SECTION 42A REPORT RECOMENDATIONS

7.1 Here I respond to the Section 42A report recommendations. I have set out my agreement with the s42A report recommendations above at 6. I now set out my differences of opinion with the s42A report. This includes providing alternative provisions where relevant. Please see appendix B for a summary of proposed amendments.

Protection of wetlands and setbacks for activities near wetlands

Background

- 7.2 Throughout four different submission points 126.17, 126.21, 126.69 and FS39.4 in support of 225.130 (Forest and Bird)¹⁷ DOC and Forest and Bird raised the importance of protecting wetlands by having specific provisions, addressing setbacks for activities in the vicinities of a wetlands.
- 7.3 Submission point 126.69 seeks that the PDP identify and protect wetlands. Point 126.17 - seeks that Policy ECO-P11 is amended to read: *“Any earthworks within, or within a 10m setback from a wetland are avoided.”*¹⁸ Also point 126.21 - seeks a 10m setback for earthworks from wetlands, as well as addition of a new criteria to be consistent with the NES-F: *“The earthworks do not occur within any area previously identified as significant habitats of indigenous fauna.”*¹⁹ Further, FS39.4 is in support of submission point 225.130 (Forest and Bird), seeking a 15m setback for activities from wetlands.
- 7.4 Regarding submission point 126.17, the S42A report indicated that ECO-P11-3 should be deleted, considering it is a duplicate of Clause 54 of the NES-F.²⁰

¹⁵ S42A Report – Part B – Natural Features and Landscapes, para 210.

¹⁶ S42A Report – Part B – Natural Features and Landscapes, para 174

¹⁷ S42A Report – Part B – Ecosystems and Indigenous Biodiversity

¹⁸ Submission 126 from DOC

¹⁹ Submission 126 from DOC

²⁰ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 380.

Noting that Clause 54 also requires a 10m setback from wetlands for both earthworks and vegetation removal. Consequently, the report recommends the deletion of ECO-P11-3.²¹

- 7.5 The assessment for point 126.21 relies on the same premises of the above, where the report suggests that being in alignment with higher order documents does not mean a duplication of provisions in planning documents. Further, the officer's report finds it appropriate to also delete ECO-R4-3.a, for being *ultra vires* and less stringent than Clause 53 of the NES-F.²² In the same assessment the reporting planner agrees with the additional criterion proposed by DOC and believes it should be incorporated for both ECO-P11 and ECO-R4-1.a in order to address the risk to habitats of indigenous fauna such as geckos and skinks that are particularly vulnerable to earthworks in addition to vegetation clearance.²³
- 7.6 Following the same trend, when assessing point 126.69 the S42A report states that PCC does have a role in terms of integrated management of wetlands.²⁴ Although the report acknowledges Policy 61(c) of the RPS does not exclude city councils from managing wetlands²⁵, the assessment indicates that the responsibility for the identification and protection of wetland relies on regional councils in light of the direction provided by the NPS-FM 2020 and NES-F where regional councils must map wetlands within 10 years. Further, Clause 5 of the NES-F requires regional councils to regulate activities in or near wetlands.²⁶ The assessment's conclusion disagrees with the submitters, stating that earthworks within a wetland is prohibited under clause 53 of the NES-F, and vegetation clearance or earthworks within 10m of a wetland are non-complying under clause 54 and only a regional council can enforce these rules under Clause 5 of the NES-F. Also, no further context was given by the submitters to justify why the matters should be addressed by the PDP.
- 7.7 The reasoning above also addresses the submission point 225.130²⁷ from Forest and Bird supported by FS39.4 (DOC's further submission), where Forest

²¹ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 383.

²² S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 433.

²³ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 434 and 439.

²⁴ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 92.

²⁵ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 90.

²⁶ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 91.

²⁷ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 86.

and Bird seeks a further reaching setback of 15m for all activities from wetlands.

Introduction

- 7.8 In response to the S42a Report assessments and recommendations around the issue described above, I believe the PPDP should also regulate setbacks from wetlands for the following reasons.
- 7.9 The RMA under Section 31(a) provides a clear direction regarding the responsibilities of local authorities in having provisions to achieve integrated management of the effects from use and development, or protection of associated natural and physical resources. Further, under Section 6(a), the preservation and protection of the natural character of wetlands from inappropriate subdivision, use, and development is considered a matter of national importance.
- 7.10 The NPS-FM also prescribes for integrated management, *“in order to give effect to this National Policy Statement, local authorities that share jurisdiction over a catchment must co-operate in the integrated management of the effects of land use and development on freshwater.”*²⁸
- 7.11 Territorial authorities are required to include objectives, policies, and methods in their district plans 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.’*²⁹
- 7.12 I agree with the S42A report that Policy 61(c) of the RPS does not exclude city councils for developing provisions on district plans for the management of activities in or in the vicinities of a wetland. The statement provides a path for provisions to be included in the plan. I also take note of Policy 40(a) of the RPS – the policy directs district plan reviews to give particular regard to *‘aquatic habitats of surface water bodies are managed for the purpose of safeguarding aquatic ecosystem health;’*³⁰. Further, the policy’s explanation states that:

²⁸ NPS-FM 2020 S3.5(3)

²⁹ NPS-FM 2020 S3.5(4)

³⁰ Regional Policy Statement for the Wellington Region (2013) – Policy 40(a), page 120.

*‘District and city councils could implement this policy by requiring setback distances between buildings and rivers, wetlands and the coastal marine area to protect riparian areas, limiting the amount of impervious surfaces allowed in new developments in some catchments, (...)’*³¹

- 7.13 From the planning direction presented above, in my view PCC does have the mandate and a duty to regulate activities in order to protect wetlands from development, including the introduction of controls for setbacks.

Setbacks from wetlands: earthworks and vegetation clearance

- 7.14 Setbacks are an effective tool to protect indigenous biodiversity. The effects of development on wetlands are not limited to earthworks, vegetation clearance and construction. The effects are ongoing and without appropriate setbacks there is potential for loss of vegetation, loss of amenity, loss of public access, etc, and increased threats through greater density of people and pets. Below are some examples of controls relating to setbacks.

- 7.15 PCC has recently suggested Standard (EWpfz-S3) with the hearing panel recommendation to the Minister for the Environment for adoption under Plan Change 18 – Plimmerton Farm dated 22 December 2020.³² The recommendation goes beyond the requirements of the NES-F, suggesting a setback of 20m for earthworks from wetlands.

- 7.16 The Kapiti Coast District Plan (KCDP), made operative on 30 June 2021 also provides for a rule standard under EW-R2 for a permitted activity, and EW-R4 for the controlled activity reading:

‘1. Earthworks must not be undertaken:

b. within 20 metres of a waterbody, including wetlands and coastal water’

33

- 7.17 As noted before, the NES-F provides a non-complying activity status to any vegetation clearance within a 10m setback from a natural wetland, earthworks of any nature within a 10m setback from a natural wetland and the taking, use,

³¹ Regional Policy Statement for the Wellington Region (2013) – Policy 40(a) explanation, page 121.

³² Plan Change 18 Plimmerton Farm Provisions – Hearing panel recommendation to the Minister for the Environment (https://storage.googleapis.com/pcc-wagtail-media/documents/PC18_Provisions_-_Hearing_Panel_Recommendation_to_Minister.pdf) page 97.

³³ Kapiti Coast District Plan – EW – Earthworks page 5
(https://www.kapiticoast.govt.nz/media/39852/earthworks_200_29-jun-2021.pdf)

damming, diversion or discharge of water within a 100m setback from a natural wetland.³⁴ Although it is a regional council responsibility to implement the NES-F, in my view the national direction should also be implemented through the proposed district plan as best practice when functions overlap, and as a requirement in relation to territorial authority functions.

Setbacks from wetlands: buildings and structures

- 7.18 Regional plans usually do not regulate all matters regarding land use and subdivision, such as setbacks from buildings and structures. These are a territorial authority's functions.
- 7.19 Standard (PApzf-S6) from Proposed Plan Change 18 – Plimmerton Farm, also introduces a 20m setback from buildings and structures from natural wetlands.³⁵

Considerations and suggested amendments

- 7.20 The purpose of a district plan is also to assist the community to understand what is permitted or not. I believe adding provisions addressing setbacks from wetlands will achieve certainty and clarity for plan readers, especially for members of the public that do not know that there are higher order documents regulating this specific issue.
- 7.21 I acknowledge Forest and Bird's point that a 15m setback will achieve higher protection for the wetlands. However, the approach taken by PCC is more far reaching, when assessing Plan Change 18 and suggesting a 20m setbacks for building and structures as well as earthworks from natural wetlands.
- 7.22 Considering Clause 6(1) of the NES-F allows district rules to be more stringent than the 10m setbacks requirement for non-complying activities prescribed under Clause 54 (a)(b). My suggestion to the panel is to introduce the standards below (or similar) for wetland protection with a 20m setback between buildings, structures, and any earthworks as well as vegetation clearance from wetlands.

³⁴ NES-FR Regulation 54(a),(b) &(c)

³⁵ Plan Change 18 Plimmerton Farm Provisions – Hearing panel recommendation to the Minister for the Environment (https://storage.googleapis.com/pcc-wagtail-media/documents/PC18_Provisions_-_Hearing_Panel_Recommendation_to_Minister.pdf) page 133

Earthworks and vegetation clearance must not be undertaken:

Within 20 meters from wetlands.

Buildings and Structures must be set back at least 20 meters from wetlands.

- 7.23 This will achieve consistency with Plan Change 18 and with neighbouring authorities (KCDP) and it will also provide clear direction for the plan readers.

Rules applying for indigenous and non-indigenous vegetation removal

- 7.24 Submission point 126.19 seeks that the same rules should apply for indigenous and non-indigenous vegetation removal, because non-indigenous vegetation can provide significant habitat for indigenous fauna. I agree with the recommendation in the officer's report to delete the word indigenous from indigenous vegetation throughout the chapter ³⁶.

- 7.25 However, I note from the new proposal for ECO-R2 and ECO-R3 that an advice note may be needed regarding the overlaps between these two rules and with ECO-R1. ECO-R2 sets the permitted activity thresholds for pest plant removal and ECO-R3 the permitted activity conditions for restoration and maintenance of SNAs.

- 7.26 However, the plan could be interpreted so that ECO-R1 also needs to be complied with in these situations. I do not consider that is the intent. ECO-R1 will apply to indigenous vegetation, and non-indigenous vegetation when it is not classified as a pest plant. As such, I recommend an advice note that clarifies that ECO-R1 does not apply when ECO-R2 and ECO-R3 can be relied upon.

Draft advice note: *When compliance with ECO-R2 and ECO-R3 is achieved for pest plant removal, ECO-R1 shall not be applied.*

- 7.27 Alternatively, an amendment to ECO-R1:

1. Activity status: Permitted

Where:

a.

...

ix. Or the activity complies with rule ECO-R2 or ECO-R3

Amendment sought for ECO-P3 under submission point 126.12

³⁶ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 198.

- 7.28 With submission point 126.12, DOC is seeking that the term “including” at the end of the chapeau of policy ECO-P3 be amended to “limited to”.³⁷ The officer’s report recommended to reject the relief as the term “including” is a better term, considering a non-exhaustive list and proposed rules would provide the exhaustive list, complementing the policy.³⁸
- 7.29 I agree with the submission point that amending the term to “limited to” will achieve more certainty. ECO-P3 is a permissive enabling policy and should be constrained to the specified activities. As written the policy enables any and all vegetation clearance in an SNA.
- 7.30 Furthermore, ECO-P3 will be applied to assess whether non-complying activities are consistent or not with the plan’s policies. Having a non-exhaustive list makes it more likely a non-complying activity will get through the gateway test under Section 104D of the RMA. Therefore, the term “limited to” will in this case work better than “including” by achieving certainty. My recommendation to the panel is to accept DOC’s submission point (126.12) amending the policy to read “limited to” as follows:

*Enable vegetation removal within Significant Natural Areas identified within SCHED7 - Significant Natural Areas where it is of a scale and nature that maintains the identified biodiversity values, ~~including~~ limited to.*³⁹

Amendments to Policy ECO-P4 – Submission point 126.13

- 7.31 The D-G’s submission point 126.13, seeks Policy ECO-P4 to be deleted, or to clarify that it is a restriction on development and clarify its relationship with ECO-P2. The officer’s report partly agreed with the point and recommended the deletion of criteria ‘e’ through ‘g’ as these are a repetition of Policy ECO-P2 but the retention of criteria ‘b’ through ‘d’ as these provide additional guidance to plan-users on appropriate subdivision, use and development.⁴⁰
- 7.32 I agree with the officer’s report regarding the deletion of criteria ‘e’ through ‘g’. However, I believe ECO-P4 is still unclear:

³⁷ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 301.

³⁸ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 304.

³⁹ Submission #126 – Director-General of Conservation, page 5.

⁴⁰ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 316.

Under ECO-P4 (1) there is no need to apply the effects management hierarchy as these are prescribed under ECO-P2;

I believe criterion (a) would be useful retaining, as the ecological assessment will provide valuable context to Council when assessing an application and it also sends a clear direction to applicants regarding the requirements for preparing an application;

Under (c) fragmentation should be dealt with in a similar way to the effects management hierarchy, by avoiding where possible and otherwise minimising; and

Criterion (d) can be interpreted as supporting development within an SNA if some of it, specifically building platforms and accessways, are located outside the SNA. I consider it inappropriate to promote development in an SNA just because some part of it occurs outside of the SNA. As required by Policy ECO-P2, the development should be avoiding effects on the SNA where possible.

- 7.33 Therefore, I suggest the panel consider retaining (a) and (b), clarifying the purpose of (c) and deleting (d).

Lack of provisions for indigenous vegetation clearance outside overlay areas.

- 7.34 From my perspective, there is an absence of biodiversity management provisions that apply outside of SNAs, ONLs, ONFs, SALs and Coastal Environment High Natural Character areas that may lead to the loss of significant indigenous biodiversity and habitats of significant indigenous fauna and does not provide a mechanism for the Council to achieve indigenous biodiversity maintenance throughout the district.
- 7.35 The evidence of Mr La Cock points to indigenous biodiversity values that do not meet significance criteria, but which contribute to indigenous biodiversity values throughout the district by way of pockets and corridors, SNA buffers and new plantings that do not yet meet SNA criteria.
- 7.36 The officer's report refers to the S32A report. At Issue 4, p32, the s 32A evaluation states the majority of indigenous vegetation has been captured with the SNAs overlays process. The remaining are covered through identified overlay controls, namely ONF, ONL and SAL areas (NFL-R2), and coastal

environment high natural character areas (CE-R2). These provisions limit the removal of indigenous vegetation outside SNAs, but within other overlays.

7.37 However, there is no rule for indigenous vegetation clearance outside these areas. This means that pockets of indigenous vegetation not identified as SNA are subject to no regulatory control, unless their clearance is proposed as part of an activity that requires resource consent, in which case consent conditions might be imposed to maintain indigenous vegetation.

7.38 The D-G's further submission point 39.16 supports Forest and Bird's submission that *"The District's indigenous biodiversity is maintained and enhanced. [225.148]"*.⁴¹ The s 42A report says at para 265, *"I consider that this is addressed by the addition of a new objective at the strategic level rather than within the ECO chapter which is focused on SNA"*. As such, new objective NE-02 is recommended by the reporting officer:

'NE-02 Maintaining and restoring indigenous biodiversity values

Indigenous biodiversity values in the District are maintained and, where possible, restored.^{42'}

7.39 I support that recommendation. I also consider that a rule framework for indigenous vegetation removal outside SNAs needs to flow from it. DOC's submission also supported Forest and Bird's submission [225.166] *"Add a new rule applying to All Zones as follows or similar: Indigenous vegetation removal outside of the SNA overlay."*⁴³

7.40 At this stage I do not express a view on where within the plan such a rule should sit. However, in order to support new objective NE-02 and to fulfil Council's functions to maintain indigenous biodiversity, I propose a new rule for indigenous vegetation clearance in all zones on these terms (or similar):

All Zones

Activity status: PER

Where:

⁴¹ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 261.

⁴² Section 42A report, Part B – Strategic Directions – Natural Environment, para 57.

⁴³ Section 42A report, Part B – Strategic Directions – Natural Environment, para 58.

the indigenous vegetation disturbance is necessary for:

conservation activities;

customary activities;

the operation, maintenance or repair of existing pasture, fences, drains, structures, including existing roads or tracks (including walking or cycling tracks);

the operation, maintenance, repair or upgrading of existing network utilities;

the purposes of emergency response by Fire and Emergency New Zealand;

compliance with a Porirua City Council Reserve Management Plan; or

the avoidance or loss of life, injury or serious damage to property.

Where the clearance is not for the purpose of those activities identified in ECO-R(new)(1), the extent of indigenous vegetation disturbed and/or cleared per site does not exceed an area of 250m² in area in any five year period.

Activity status where compliance not achieved: RDIS

Matters over which discretion is restricted:

The location and purpose of the proposed disturbance and potential adverse effects on indigenous biodiversity, including fragmentation and loss of biodiversity.

Whether any proposed indigenous vegetation disturbance associated with the activity will result in loss of habitat that supports or provides a key life function for 'threatened' or 'at risk' indigenous species.

I understand the new proposed rule differs from the rule⁴⁴ proposed by Forest and Bird. However, I am making efforts to rationalise with Forest and Bird and reach an agreement prior to the hearing.

- 7.41 Attached at appendix C is a synopsis of some other district plan provisions for indigenous vegetation removal applying outside SNAs (often on a district wide basis).

⁴⁴ Submission #225 - Royal Forest and Bird Protection Society, page 67.

Amendment to the definition of ‘significant natural area’ – further submission point 39.25, in support of submission point 126.3 from Queen Elizabeth II National Trust (QEII);

- 7.42 There is a concern among submitters that an amendment to the definition of significant natural areas is important in order to protect SNAs that will be identified throughout the life of the plan, and therefore not yet part of proposed Schedule 7. The officer’s report justifies that the RMA provides mechanisms to address new ecological information updates to the district plan, such as plan changes, reviews, and variations.⁴⁵ The officer’s report has recommended the proposed amendments to be rejected by the panel.

Definition of significant natural areas from the Proposed Porirua District Plan:

‘Significant natural area - means an area of significant indigenous vegetation or significant habitat of indigenous fauna identified in SCHED7 - Significant Natural Areas⁴⁶’

- 7.43 I agree with the submitters that an amendment to the definition would be beneficial, in particular to address concerns relating to the protection of future identified SNAs, considering the proposed definition is limited to the SNAs already identified within Schedule 7.

- 7.44 The Draft National Policy Statement for Indigenous Biodiversity (NPS-IB) provides a definition for SNAs, and the definition includes areas identified from assessment of environmental effects:

‘SNA or significant natural area, means –

c) an area identified as an area of significant indigenous vegetation or significant habitat of indigenous fauna as part of an assessment of environmental effects⁴⁷

⁴⁵ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 115.

⁴⁶ Proposed Porirua District Plan – Notified version – Part 1 Definitions

⁴⁷ National Policy Statement for Indigenous Biodiversity – Definition SNA page 14 (<https://environment.govt.nz/assets/Publications/Files/draft-npsib.pdf>)

Noting the NPS-IB it is not operative at this stage. According to the Ministry for the Environment website, a Minister's decision was expected by July 2021.⁴⁸

7.45 I agree with the officer's report that the inclusion of new information to the plan will be subject to an RMA Schedule 1 process. However, if a SNA is identified via an assessment of environmental effects, part of a resource consent application, it will not be protected by plan provisions until a plan change comes to fruition. An amendment to the definition would add certainty until the hypothetical SNA becomes fully protected as part of the district plan. Therefore, my recommendation to the panel is to amend the definition of SNAs, as proposed below by QEII, to include SNAs identified throughout the life of the plan that meets the criteria under Policy 23 of the RPS.

QEII proposed definition of significant natural areas:

Significant Natural Areas –

means any area of significant indigenous vegetation or significant habitat of indigenous fauna that meets the criteria for 'Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plan' (policy 23). This includes those significant natural areas identified in SCHED7 - Significant Natural Areas⁴⁹.

Amendments to Policy ECO-P12 giving effect to the NZCPS

7.46 Forest and Bird in its submission has proposed that Policy ECO-P12 should be deleted as it does not give effect to Policy 11(b) of the NZCPS⁵⁰. The officer's report agreed in part with the claim and is proposing to expand Policy ECO-P12 in order to give effect to Policy 11(b) of the NZCPS.⁵¹ I agree with Forest and Bird and with the officer's report and I recommend the panel to accept the amendments proposed within the officer's report for Policy ECO-P12. I believe it will then give effect to the NZCPS.

⁴⁸ Ministry for the Environment – NPS-IB timeline (<https://web.archive.org/web/20210302231207/https://www.mfe.govt.nz/consultations/nps-indigenous-biodiversity>)

⁴⁹ Submission #216 - Queen Elizabeth the Second National Trust (QEII), page 6.

⁵⁰ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 388.

⁵¹ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 390.

Exclusion of the term “from inappropriate use and development” from ECO-01 – Further submission point 39.15, in support of 225.146 from Forest and Bird.

7.47 Forest and Bird's submission point 225.146 sought ECO-01 to be amended, considering Section 6(c) of the RMA does not include the term “from inappropriate use and development”⁵². The submitter suggested the objective to read as it follows:

‘The ~~identified~~ values of significant natural areas are protected ~~from inappropriate use and development~~, and where appropriate, restored.’⁵³

7.48 I agree with the officer’s report statement that the ‘qualifier “identified” limits protection to the values identified within an SNA at the time of mapping.’⁵⁴ I also agree with the recommendation to remove the qualifier ‘identified’ throughout the chapter⁵⁵. This will provide for more adequate environmental protection.

7.49 However, I agree with the submitter, and I believe further consideration must be given in order to also remove the term “from inappropriate use and development” from objective ECO-01. Keeping the objective as recommended in the officer’s report will limit the protection of the values of significant natural areas only from inappropriate use and development. The officer’s report notes that this is consistent with Policy 24 of the Regional Policy Statement. Section 6(c) of the RMA is not limited in this way and is directive in its requirement to protect SNAs. Therefore, my suggestion to the panel is to accept submission point 225.146 and amend ECO-01 as suggested above (para 7.47). This will give effect to the RPS as well as meeting the requirement to provide for matters of national significance in the RMA.

Activity status amendment for Rule ECO-R9 from non-complying to discretionary.

7.50 DOC’s further submission point 39.23 opposed a submission from PCC requesting Rule ECO-R9 to be amended from non-complying to discretionary.

⁵² S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 121.
⁵³ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 121.
⁵⁴ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 122.
⁵⁵ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 125a.

The officer's report has suggested the rule should be discretionary in order to achieve consistency throughout the plan⁵⁶ and that potential effects will be covered by other rules and the effects management hierarchy.

- 7.51 I disagree with the officer's report. I believe achieving effective protection for indigenous biodiversity should have a higher weight than achieving consistency throughout the plan, considering we are discussing matters of national importance (Section 6 of the RMA) and it is uncertain to assume that potential effects will be addressed by other rules, as we are unable to anticipate the content of a future application.
- 7.52 A non-complying status for SNAs sends a clear signal to discourage development in a sensitive area. A discretionary status will prevent assessment under Section 104D of the RMA. Therefore, my suggestion to the panel is to keep rule ECO-R9 as notified.

Amendments for vegetation clearance for new and upgraded walkways

- 7.53 DOC's submission point 126.28 sought amendments in ECO-R1-1.a.iv for vegetation clearance for new and upgraded walkways. The officer's report suggested the deletion of ECO-R1-1.a.iv.⁵⁷, as rules relating to infrastructure are addressed in the Infrastructure Chapter.
- 7.54 I acknowledge the deletion of ECO-R1-1.a.iv. at this stage. However, I would like to state that I agree with the submission point from DOC, where maintenance of walkways is considered appropriate as a permitted activity. However, vegetation clearance for new and upgrading walkways without ecological assessment of the values is not considered appropriate. The construction of 2.5m walkways would require a significantly wider construction corridor.⁵⁸

Introduction of two new objectives to Ecosystems and Indigenous Biodiversity – Further submission point 39.16 in support of submission point 225.147 from Forest and Bird

⁵⁶ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 483.

⁵⁷ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 412.

⁵⁸ Submission #126 – Director-General of Conservation, page 6.

7.55 Forest and Bird are seeking the inclusion of two new objectives to the Indigenous Biodiversity chapter (ECO):

“Subdivision, use and development is managed to ensure the ecological function and protective buffering of hydrological and ecological systems are maintained and restored.”

“The District’s indigenous biodiversity is maintained and enhanced.”⁵⁹

7.56 The reasoning for including the first objective is: *‘the chapter fails to consider effects of activities within the Council’s functions on ecological values beyond SNAs. This is inconsistent with the NPSFM and does not provide for councils integrated management functions’.*⁶⁰

7.57 The officer’s report recommends the inclusion of the objective is rejected as there are higher order documents regulating effects of activities on wetlands as receiving environments and that the proposed objective relates to Section 31 functions for territorial authorities.⁶¹

7.58 I agree with the submitter that there is a gap in the proposed plan relating to managing ecological values outside SNAs. I believe the proposed objective will provide for better protection of ecological values outside of SNAs and it will also achieve alignment with the NPS-FM regarding integrated management. The officer’s report reads that the first objective falls under Section 31 functions. I agree, the proposed objective is addressing *‘Subdivision, use and development’* and these functions fall under Section 31 of the RMA – Functions of territorial authorities. Therefore, my understanding is the issue should be addressed by the proposed district plan.

7.59 Regarding the second objective, Forest and Bird believes *‘Council has a function to maintain indigenous biodiversity which extends beyond SNAs’*⁶². The officer’s report considers that the issue should be addressed with the addition of a new objective at the strategic level rather than within the ECO chapter. I believe the new proposed objective NE-02 (para 7.38) is similar in content and it should address Forest and Bird’s concerns.

⁵⁹ Submission #225 - Royal Forest and Bird Protection Society, page 55.

⁶⁰ Submission #225 - Royal Forest and Bird Protection Society, page 55.

⁶¹ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 263-264.

⁶² Submission #225 - Royal Forest and Bird Protection Society, page 55.

7.60 Therefore, my recommendation to the panel is to accept 225.147 in part and include the first objective as quoted above in para 7.55.

Amendments to rule NFL-R2 and standard NFL-S2 – Submission point 126.33

7.61 DOC's submission point 126.33 raises concerns regarding indigenous vegetation removal within ONFLs, and SALs and is seeking amendments to rule NFL-R2 where the permitted activity status should be removed, giving space to a restricted discretionary status when compliance with NFL-S2 is achieved and ecological survey supplied. Further, discretionary activity status should be applied to activities unable to comply with NFL-S2 and activities unaccompanied by an ecological survey should be prohibited.⁶³

7.62 The officer's report considers that it is appropriate and reasonable to provide for some degree of vegetation removal in NFLs as a permitted activity⁶⁴ and exceeding the permitted activity standards under NFL-R2 would require a resource consent application for a restricted discretionary activity, giving Council the opportunity to consider the effects of any clearance.

7.63 I partially agree with the officer's report. I agree that some degree of vegetation removal in NFLs could be permitted. However, I disagree with the second part. I believe the matters of discretion under NFL-S2 do not reach far enough to provide Council with appropriate tools to consider the effects.

7.64 The matters of discretion under NFL-S2 are limited to:

'The matters of discretion are restricted to:

1. The scale of the vegetation removal; and

2. The effect of the vegetation removal the on identified values and characteristics within SCHED9 - Outstanding Natural Features and Landscapes or SCHED10 - Special Amenity Landscapes.⁶⁵

7.65 The discretion is limited to scale of vegetation removal and effects on the identified values and characteristics in Schedules 9 and 10 (which are focussed on natural features, landscapes and amenity). An ecological survey would provide Council with an assessment of the ecological values of the area or site,

⁶³ Submission #126 – Director-General of Conservation, page 7.

⁶⁴ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 144.

⁶⁵ S42A Report – Part B – Ecosystems and Indigenous Biodiversity - Appendix A pages 15-16.

including valuable plants, habitats, and mobile fauna. Therefore, my recommendation to the panel is to add another matter of discretion to NLF-S2 and a note under NFL-R2 (or similar) as follows:

The matters of discretion are restricted to:

- 1. The scale of the vegetation removal; ~~and~~*
- 2. The effect of the vegetation removal the on identified values and characteristics within SCHED9 - Outstanding Natural Features and Landscapes or SCHED10 - Special Amenity Landscapes; and*
- 3. The content of the ecological survey, as noted in NFL-R2.*

Draft note for NFL-R2:

Note: Applications under this rule must provide the following in addition to the standard information requirements pursuant to s88(3) of the RMA:

- An assessment by a suitably qualified landscape architect to assess the proposal against the characteristics and values of the Outstanding Natural Feature and Landscape or Special Amenity Landscape.*
- An ecological survey by a suitably qualified ecologist to assess the ecological interests of the area or site subject of the application.*

8. CONCLUSION

- 8.1 The main concerns I have with the notified plan and Section 42A reports under scope for Hearing Stream 2 were addressed throughout my evidence.
- 8.2 In conclusion, I consider that the amendments I have proposed will: address outstanding issues and notable gaps; ensure the proposed Plan gives effect to the higher order documents; and appropriately manage indigenous biodiversity and natural features and landscapes across Porirua city and wider areas.

Dated 15 October 2021



Joao Paulo Silva

Appendix A – Summary of Submission and Further Submission

DIRECTOR GENERALC'S SUBMISSION AND FURTHER SUBMISSION

This is the first appearance by DOC to the PPDP hearing streams. Therefore, I believe a summary of DOC's submissions would be beneficial considering the connection with this statement of evidence.

DOC's submission seeks to retain a range of the notified provisions and it is generally supportive of the path embraced by the PPDP. Under Part 2, DOC is largely supportive of the framework of objectives for the Natural Environment (NE) and Coastal Environment (CE). Regarding policies, I note that DOC is largely in support of the Coastal Environment framework, having sought to retain nine policies as notified. DOC is also supportive of five of the proposed policies under Ecosystems and Indigenous Biodiversity. Under the rule's framework, regarding the Coastal Environment under Part 4, DOC supports seven of the proposed rules.

When considering amendments, deletions and additions of proposed provisions, DOC has an overall concern regarding achieving consistency with higher order statutory documents, in particular the NZCPS, NPS-FM 2020 and NES-F.

The specific concerns from the submission are set out as it follows:

Part 2: Energy, Infrastructure and Transport – the submission raises three points in the topic, all regarding renewable electricity generation (REG). The three amendments are seeking the PPDP to achieve consistency with the NZCPS, by introducing a requirement for the avoidance of adverse effects in Significant Natural Areas (SNAs), Outstanding Natural Features and Landscapes (ONFLs). Also, policies and rules should not encourage development within SNAs and ONFLs, therefore small-scale renewable electricity generations within these sensitive environments should have a non-complying activity status. Further, rules relating to wetlands must be consistent with the NPS-FM 2020 and NES-F.

Part 2: Natural Environment Values - the submission raises nineteen points within this topic. Mostly regarding Ecosystems and Indigenous Biodiversity

(ECO) and Natural Features and Landscapes (NFL). There is one point in support for Natural Character (NATC), requesting to retain NATC-01 as notified and to provide further policy direction embracing areas of outstanding natural character identified throughout the life of the plan.

Other points under ECO covers clarification regarding adverse effects of plantation forestry activities and an amendment for development in SNAs listed under Schedule 7, where limits should be introduced for removal of vegetation. There are other points regarding removal of vegetation, seeking a rule amendment to require ecological assessment for the clearance of new or upgraded walkways and construction of residential units within SNAs. DOC is also seeking a more specific rule to consider that exotic vegetation may also provide habitat for threatened species and provision amendments regarding earthworks setbacks for wetlands in order to achieve consistency with the NES-F. DOC also seeks rule amendment stating that earthworks do not occur within significant habitats of indigenous fauna and proposes a change of activity status for removal of indigenous vegetation to discretionary, to ensure matters not captured by policy can be considered.

In terms of NFL provisions there is an overall concern throughout the framework to protect ONFL's in a complete and holistic manner, this could be achieved by removing the references to characteristics and values and introducing an additional objective and policy ensuring extended protection to other ONFLs identified during the life of the plan. For the identification of ONFLs, DOC is of the opinion that the criteria prescribed by Policy 15 of the NZCPS should be adopted to achieve consistency. DOC also believes that mining and quarrying activities are not appropriate within Special Amenity Landscapes and seeks policy amendment to reflect this issue. The submission also seeks a rule amendment regarding the activity status for the removal of indigenous vegetation within ONFLs from permitted to restricted discretionary with a requirement to provide an ecological survey. There is also a concern regarding buildings and structures within ONFLs and Special Amenity Landscape, including those in the coastal environment – the submission seeks for these activities to have a controlled status within the coastal environment and a restricted discretionary status for applications outside of the coastal environment. This will give Council the opportunity to assess the impacts from

these structures. The NPS-PF states that afforestation must not occur within a significant natural area or an outstanding natural feature or landscape, in order to give effect to the NPS-PF, DOC is seeking that for new plantation forestry within a Special Amenity Landscape activity status to be a discretionary activity.

Part 2: General District Wide Matters – the submission raises 23 points in the topic. Although mostly of the points are in support (17 out of 23 – retain as notified) there are a few points of concern regarding the Coastal Environment (CE) and proposed additions to the plan.

DOC believes that CE-02 does not give effect to Policy 25 of the NZCPS and requests the objective to be amended to give effect to the policy. The submission also mentions the introduction of a new objective, policy and rule to encourage managed retreat in areas where coastal hazards are present - this will reflect Objective 5 and Policy 25 of the NZCPS.

DOC's submission also notes a policy gap regarding areas of outstanding natural character – although the NZCPS and RPS do not prescribe for the identification of those areas, Policy 13 (a) of the NZPS cannot be implemented without a policy provision for it. Therefore, DOC seeks the introduction of policy direction to avoid adverse effects on areas of outstanding natural character in the coastal environment.

In terms of rules regarding soft engineering works, DOC believes this is appropriate, however checks and balances must be added to the rule to protect sensitive environments. Council should also maintain the ability to decline activities within the coastal hazard overlays when appropriate. Therefore, an amendment from controlled to restricted discretionary activity status with relevant matters of discretion is sought for rule CE-R7.

The submission acknowledges the proposed plan was notified prior to the NPS-FM 2020 and NES-F being gazetted. However, it seeks a subsequent review of the proposed plan in order to determine in what extent it needs to give effect to the new freshwater direction and that all wetlands to be properly identified in accordance with the NPS-FM 2020.

Part 4: Appendices and Schedules – The submission only refers to two points within Part 4, as it follows.

For Appendix 8 (APP8) – DOC supports clear and consistent biodiversity offsetting principles and suggests the PPDP should follow the available guidance to achieve national consistency.

For Appendix 9 (APP9) – DOC supports clear and consistent biodiversity compensation principles and suggests the PPDP should follow the available guidance to achieve national consistency.

Director General’s Further Submission

In addition to the submission, the Director-General of Conservation has further submitted on the PPDP in a range of points, including supporting points of submissions from Royal Forest and Bird Protection Society (#225), Queen Elizabeth the Second National Trust (QEII) (#216), Greater Wellington Regional Council (#137), among other submitters.

Regarding points of specific concern, the further submission responds (not in support) to submission points from Fulton Hogan (#262) requesting areas dominated by primary production activities should be excluded from being identified as a Special Amenity Landscape and allowing subdivision and development within ONFs, NFLS and Special Amenity Landscapes by demonstrating that development is within the underlying zoning for primary production in the Rural Zone. DOC also rejects the proposed amendment including new policy to allow an expansion or development of existing mining and quarrying activities in Special Amenity Landscapes, among other points.

DOC is also not supportive of a submission point from Kainga Ora – Homes and Communities (#81), where the proposed objective amendment (81.214) would not provide for the protection of significant biodiversity values outside of scheduled areas including SNAs, SNFLs and Outstanding Natural Landscapes. DOC is also of the opinion that the submission points raised by Porirua City Council (#11) (11.46, 11.52 and 11.53) as well as submission point raised by Waka Kotahi NZ Transport Agency (#82) (82.163) and Transpower New Zealand Ltd (#60) (60.22) are inconsistent with the NZCPS and therefore DOC does not support these points.

Appendix B – Table of proposed amendments

Submission point	PDP Provision	Position/Reasoning	Amendment sought
126.17, 126.21, 126.69 and FS39.4	N/A	From para 7.2 (body of evidence)	<p><u>Earthworks and vegetation clearance must not be undertaken:</u></p> <p><u>Within 20 meters from wetlands.</u></p> <p><u>Buildings and Structures must be set back at least 20 meters from wetlands.</u></p>
126.19	ECO-R1 ECO-R2 and ECO-R3	From para 7.24 (body of evidence)	<p><u>Draft advice note: When compliance with ECO-R2 and ECO-R3 is achieved for pest plant removal, ECO-R1 shall not be applied.</u></p> <p>Or, an amendment to ECO-R1:</p> <p>1. Activity status: Permitted</p> <p>Where:</p> <p>a.</p> <p>...</p> <p>ix. <u>Or the activity complies with rule ECO-R2 or ECO-R3</u></p>
126.12	ECO-P3	From para 7.28 (body of evidence)	<p><i>Enable vegetation removal within Significant Natural Areas identified within SCHED7 - Significant Natural Areas where it is of a scale and nature that maintains the identified biodiversity values, including <u>limited to</u>;⁶⁶</i></p>
126.13	ECO-P4	From para 7.31 (body of evidence)	<p>To consider retaining (a) and (b), to clarifying the purpose of (c) and to delete (d).</p>

⁶⁶ Submission #126 – Director-General of Conservation, page 5.

FS39.16	N/A	From para 7.34 (body of evidence)	<p><u>All Zones</u></p> <p><u>Activity status: PER</u></p> <p><u>Where:</u></p> <p><u>the indigenous vegetation disturbance is necessary for:</u></p> <p><u>conservation activities;</u></p> <p><u>customary activities;</u></p> <p><u>the operation, maintenance or repair of existing pasture, fences, drains, structures, including existing roads or tracks (including walking or cycling tracks);</u></p> <p><u>the operation, maintenance, repair or upgrading of existing network utilities;</u></p> <p><u>the purposes of emergency response by Fire and Emergency New Zealand;</u></p> <p><u>compliance with a Porirua City Council Reserve Management Plan; or</u></p> <p><u>the avoidance or loss of life, injury or serious damage to property.</u></p> <p><u>Where the clearance is not for the purpose of those activities identified in ECO-R(new)(1), the extent of indigenous vegetation disturbed and/or cleared per site does not exceed an area of 250m² in area in any five year period.</u></p> <p><u>Activity status where compliance not achieved: RDIS</u></p>
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			<p><u>Matters over which discretion is restricted:</u></p> <p><u>The location and purpose of the proposed disturbance and potential adverse effects on indigenous biodiversity, including fragmentation and loss of biodiversity.</u></p> <p><u>Whether any proposed indigenous vegetation disturbance associated with the activity will result in loss of habitat that supports or provides a key life function for 'threatened' or 'at risk' indigenous species.</u></p>
FS39.25	Definition	From para 7.42 (body of evidence)	<p><i>Significant Natural Areas –</i></p> <p><i>means any area of significant indigenous vegetation or significant habitat of indigenous fauna that meets the criteria for ‘<u>Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plan</u>’ (policy 23). This includes <u>those significant natural areas identified in SCHED7 - Significant Natural Areas</u>⁶⁷.</i></p>
FS39.15	ECO-01	From para 7.47 (body of evidence)	<p>To read:</p> <p><i>‘The identified values of significant natural areas are protected from inappropriate use and development, and where appropriate, restored.’⁶⁸</i></p>
FS39.23	ECO-R9	From para 7.50 (body of evidence)	To retain rule ECO-R9 as notified in the PPDP.
FS39.16	N/A	From para 7.55 (body of evidence)	To include to new objectives:

⁶⁷ Submission #216 - Queen Elizabeth the Second National Trust (QEII), page 6.

⁶⁸ S42A Report – Part B – Ecosystems and Indigenous Biodiversity, para 121.

			<i>“Subdivision, use and development is managed to ensure the ecological function and protective buffering of hydrological and ecological systems are maintained and restored.”⁶⁹</i>
126.33	NFL-R2 and NFL-S2	From para 7.61 (body of evidence)	<p>To add another matter of discretion to NLF-S2 and a note under NFL-R2 (or similar) as follows:</p> <p><i>The matters of discretion are restricted to:</i></p> <ol style="list-style-type: none"> <i>1. The scale of the vegetation removal; and</i> <i>2. The effect of the vegetation removal the on identified values and characteristics within SCHED9 - Outstanding Natural Features and Landscapes or SCHED10 - Special Amenity Landscapes; <u>and</u></i> <i><u>3. The content of the ecological survey, as noted in NFL-R2.</u></i> <p>Draft note for NFL-R2:</p> <p><i>Note: Applications under this rule must provide the following in addition to the standard information requirements pursuant to s88(3) of the RMA:</i></p> <ul style="list-style-type: none"> <i>• An assessment by a suitably qualified landscape architect to assess the proposal against the characteristics and values of the Outstanding Natural Feature and Landscape or Special Amenity Landscape.</i>

⁶⁹ Submission #225 - Royal Forest and Bird Protection Society, page 55.

			<ul style="list-style-type: none">• <u>An ecological survey by a suitably qualified ecologist to assess the ecological interests of the area or site subject of the application.</u>
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Appendix C

Examples of Indigenous Vegetation clearance rules outside SNAs and the Coastal Environment

Plan	Date	Provision		
Central Hawkes Bay Proposed District Plan	Proposed Plan notified 28 May 2021	<i>ECO-R4 Trimming or clearance of indigenous vegetation outside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna</i>		
		<i>Manuka and Kanuka Species Only</i>	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <ul style="list-style-type: none"> i. clearance of no more than 1 hectare per site per calendar year. ii. Trees to be cleared must be: <ul style="list-style-type: none"> a. no more than 15cm in diameter measured 1.4m from the highest point of ground level at the base of the tree; and b. must have an average canopy height of less than 6 metres. 	<p>2. Activity status where compliance not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. ECO-AM1.</p>
		<i>All other indigenous Vegetation Species</i>	<p>3. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. Limited to:</p> <ul style="list-style-type: none"> i. clearance of no more than 1 hectare per site per calendar year. 	<p>4. Activity status where compliance not achieved: DIS</p>

			<p>ii. <i>Trees to be cleared must be:</i></p> <p>a. <i>no more than 15cm in diameter measured 1.4m from the highest point of ground level at the base of the tree; and</i></p> <p>b. <i>must have an average canopy height of less than 6 metres.</i></p>																
<p>Hastings District Council</p>	<p>Partially Operative from February 2020 (2015 decisions version with amendments in accordance with Environment Court consent orders)</p>	<table border="1"> <thead> <tr> <th data-bbox="779 740 920 842">RULE</th> <th data-bbox="920 740 1843 842">ACTIVITY</th> <th data-bbox="1843 740 1991 842">ACTIVITY STATUS</th> </tr> </thead> <tbody> <tr> <td data-bbox="779 842 920 948">IN1</td> <td data-bbox="920 842 1843 948"><i>Indigenous vegetation modification outside of any area identified in Appendix 56 which meets the General Performance Standards and Terms in Section 20.1.6.</i></td> <td data-bbox="1843 842 1991 948">P</td> </tr> <tr> <td data-bbox="779 948 920 1051">IN2</td> <td data-bbox="920 948 1843 1051"><i>Indigenous vegetation modification within any Recommended Area for Protection (RAP) site identified in Appendix 56 which meets the General Performance Standards and Terms in Section 20.1.6B.</i></td> <td data-bbox="1843 948 1991 1051">P</td> </tr> <tr> <td data-bbox="779 1051 920 1189">IN3</td> <td data-bbox="920 1051 1843 1189"><i>Indigenous vegetation modification within any Recommended Area for Protection (RAP) site identified in Appendix 56 which fails to meet one or more of the General Performance Standards and Terms 20.1.6B.</i></td> <td data-bbox="1843 1051 1991 1189">RD</td> </tr> <tr> <td data-bbox="779 1189 920 1326">IN4</td> <td data-bbox="920 1189 1843 1326"><i>Indigenous vegetation modification outside of any Recommended Area for Protection (RAP) site identified in Appendix 56 which fails to meet one or more of the General Performance Standards and Terms in Section 20.1.6.</i></td> <td data-bbox="1843 1189 1991 1326">RD</td> </tr> </tbody> </table> <p>20.1.6</p>			RULE	ACTIVITY	ACTIVITY STATUS	IN1	<i>Indigenous vegetation modification outside of any area identified in Appendix 56 which meets the General Performance Standards and Terms in Section 20.1.6.</i>	P	IN2	<i>Indigenous vegetation modification within any Recommended Area for Protection (RAP) site identified in Appendix 56 which meets the General Performance Standards and Terms in Section 20.1.6B.</i>	P	IN3	<i>Indigenous vegetation modification within any Recommended Area for Protection (RAP) site identified in Appendix 56 which fails to meet one or more of the General Performance Standards and Terms 20.1.6B.</i>	RD	IN4	<i>Indigenous vegetation modification outside of any Recommended Area for Protection (RAP) site identified in Appendix 56 which fails to meet one or more of the General Performance Standards and Terms in Section 20.1.6.</i>	RD
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		<p>GENERAL PERFORMANCE STANDARDS AND TERMS <i>The following General Performance Standards and Terms apply to all activities.</i></p> <p>20.1.6A INDIGENOUS VEGETATION MODIFICATION OUTSIDE OF ANY AREA IDENTIFIED IN APPENDIX 56 Indigenous Vegetation Modification is <u>not</u> a Permitted activity in an area which:</p> <p>a) <i>Exceeds 1000m² and is within a contiguous* 5 hectare area or greater which has an actual or emerging predominance of indigenous tree species (excluding manuka and kanuka) of any height; or</i></p> <p>b) <i>Any area of woody indigenous vegetation (excluding manuka and kanuka) containing tree species, which attain at least 30cm diameter at breast height at maturity, and is either;</i> i. <i>over 1 Ha and with an average canopy height over 6 metres; or</i> ii. <i>over 5 Ha of any height.</i></p> <p>c) <i>Contains indigenous trees over 100 years old, unless the sum of all areas of modification is less than 1000m² in any 10 year period; or</i></p> <p>d) <i>Is a wetland over 100m² in area with an average width of at least 5m; or</i></p> <p>e) <i>Is over 500m² in area within the coastal environment.</i></p> <p><i>* 'Contiguous' is defined as vegetation having boundaries that make contact but areas that do not overlap.</i></p>				
Invercargill District Plan	Operative 30 August 2019	<table border="1"> <tr> <td data-bbox="779 1190 938 1257">ECO-R3</td> <td data-bbox="938 1190 2031 1257">ECO-R4 to ECO-R8 apply to indigenous vegetation that is not identified as being within an area of significant indigenous biodiversity on the Planning Maps.</td> </tr> <tr> <td data-bbox="779 1257 938 1362">ECO-R5</td> <td data-bbox="938 1257 2031 1362"> Clearance of indigenous vegetation is a permitted activity where the clearance is: <ol style="list-style-type: none"> Of indigenous vegetation that was been deliberately planted: <ol style="list-style-type: none"> Within a domestic or public garden; </td> </tr> </table>	ECO-R3	ECO-R4 to ECO-R8 apply to indigenous vegetation that is not identified as being within an area of significant indigenous biodiversity on the Planning Maps.	ECO-R5	Clearance of indigenous vegetation is a permitted activity where the clearance is: <ol style="list-style-type: none"> Of indigenous vegetation that was been deliberately planted: <ol style="list-style-type: none"> Within a domestic or public garden;
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			<p>b) For amenity purposes;</p> <p>c) For the use of screening / shelter belt purposes (such as farm hedgerows); or</p> <p>d) For the purpose of commercial harvest; or</p> <p>2. Of indigenous vegetation that has grown naturally since 2006 on land lawfully cleared of indigenous vegetation.</p> <p><i>Note: 2006 has been selected as the date for the purposes of ECO-R5.2 due to the availability of aerial photography for the District.</i></p>
		ECO-R6	<p>The clearance of indigenous vegetation in the Coastal Environment, and/or areas of Outstanding Natural Features and Landscape (other than provided for in ECO-R4 and ECO-R5), is a permitted activity where:</p> <ol style="list-style-type: none"> 1. The clearance of indigenous vegetation less than 500m² within any site over any 5 year period 2. The clearance of indigenous vegetation is more than 10 metres from a wetland or river 3. For the purpose of the construction, maintenance and operation of a river crossing, the clearance of indigenous vegetation is within 10 metres of a river, provided that there is no more than 20 linear metres of clearance.
		ECO-R7	<p>The clearance of indigenous vegetation in areas outside the Coastal Environment and/or areas of Outstanding Natural Features and Landscapes (other than provided for in ECO-R4 and ECO-R5), is a permitted activity where:</p> <ol style="list-style-type: none"> 1. The clearance of indigenous vegetation less than 1,000m² within any site over any 5 year period 2. The clearance of indigenous vegetation is more than 10 metres from a wetland or river 3. For the purpose of the construction, maintenance and operation of a river crossing, the clearance of indigenous vegetation is within 10 metres of a river, provided that there is no more than 20 linear metres of clearance.
		ECO-R8	<p>Where clearance does not meet ECO-R4 to ECO-R7, clearance of indigenous vegetation, is a restricted discretionary activity.</p> <p>...</p>
Stratford District Council	Operative February 2014	B1.2.1.1 Permitted Activities	

		<p><i>The following are permitted activities throughout the Rural Zone provided that the activity also complies with the Standards, Conditions and Terms in Part B.2 relevant to the Rural Zone and provided that no part of the activity is listed in either B1.1.3, B1.1.4, B1.1.5, B1.1.6, B1.2.1.2, B1.2.1.3, B1.2.1.4, B1.2.1.5 or B1.2.1.6</i></p> <ul style="list-style-type: none"> • <i>Indigenous vegetation disturbance which results from the removal of plantation forestry where, because it is necessary to avoid endangering the health and safety of workers or where it is operationally unavoidable to do otherwise, vegetation is felled into an area of indigenous vegetation.</i> • <i>the removal or trimming of any vegetation whatsoever, including any indigenous vegetation disturbance, as required for:</i> <ul style="list-style-type: none"> a. <i>actions necessary for the avoidance of imminent danger to human life</i> b. <i>the collection of material for scientific purposes or propagation</i> • <i>the removal or trimming or disturbance of any vegetation, including indigenous vegetation, as required for:</i> <ul style="list-style-type: none"> a. <ul style="list-style-type: none"> i. <i>the operation, maintenance and upgrading of legally established infrastructure, including: - roads - stream or river access points - fire water points - utilities and structures - fence lines to the maximum distance of no more than 3 metres from the road, stream or river access, fire water point, utility, structure or fence.</i> ii. <i>the maintenance of legally established farm tracks to the maximum distance of no more than 1.5 metres from the outer edge of the track's water tables.</i> iii. <i>the operation, maintenance and upgrading of existing legally established drains and culverts, to the maximum distance of no more than 1.5 metres from the drain or culvert.</i> iv. <i>the operation, maintenance and upgrading of legally established infrastructure that provides for the operation, supply and transmission of electricity to the maximum distance is no more than 3 metres from the utility or structure or, in the case of any electricity line, the distance prescribed in the Electricity (Hazards from Trees) Regulations 2003.</i> v. <i>fencing and benching activities within 20 metres of a wetland where this work is undertaken only for the purposes of conservation and enhancement of the wetland</i>
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		<p><i>b. the collection of material by tangata whenua for maintaining noncommercial traditional practices of rongā (medical purposes), raranga (weaving) and maahi whakairo (carving). Note: Any notable tree (as identified in Appendix 5: Notable Trees Identified for Protection) is excluded from any permitted activity rule relating to vegetation removal in the Rural Zone.</i></p> <ul style="list-style-type: none"> • <i>Sustainable forest management harvesting of indigenous vegetation that has been planted and managed specifically for the purpose of sustainable forest management harvesting, and maintenance of such vegetation.</i> • <i>Sustainable forest management harvesting of indigenous forest in the “Frontal Hill Country” and “Hill Country” parts of the district (as identified in Figure 2 “Landforms of the Taranaki Region” in the Stratford District Plan) provided that:</i> <ul style="list-style-type: none"> <i>a. The activity is not located in a land environment, defined by Land Environments of New Zealand at Level IV (2003), that has 20 per cent or less remaining in indigenous vegetation cover; and</i> <i>b. The activity is carried out in accordance with a Sustainable Forest Management permit granted under section 67M of the Forests Act 1949 and no more than 10 years has elapsed since the grant of the Permit; and</i> <i>c. Prior to commencement of the activity, a copy of the Permit and a letter from the Department of Conservation that states that no rare and/or threatened species or habitats is/are present shall be provided to the Council.</i> <i>Note: The Department of Conservation may elect to provide the letter required by this rule in response to the consultation undertaken under section 67F(2) of the Forests Act 1949.</i> <i>Note: A consent may be required from the Manawatu-Wanganui regional Council. The regional council should be contacted for advice.</i> • <i>felling, trimming, or removal of any lone indigenous tree, provided that it is not located on the volcanic ring plain area as identified in “Figure 2: Landforms of the Taranaki Region” in the Stratford District Plan.</i> • <i>Indigenous vegetation disturbance where all of the vegetation in the area to be disturbed is not significant as assessed under Standard B6.1.2 bullet point 7, provided that:</i> <ul style="list-style-type: none"> <i>a. that the vegetation in an area is not significant must be certified through an ecological assessment report; and</i>
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		<p>b. the report must be undertaken by a suitably qualified person using the criteria identified in Standard B6.1.2 bullet point 7 and must be lodged with the Stratford District Council, and</p> <p>c. the Council will confirm that the report establishes, to its satisfaction, that the area is not significant in terms of Standard B6.1.2 bullet point 7 and shall reject the report if considered insufficient; and</p> <p>d. the report must be no older than 10 years at the time of undertaking the disturbance activity; and</p> <p>e. for the avoidance of doubt, no indigenous vegetation disturbance is permitted until such time as the Council has given its confirmation.</p> <p>Note: The Rural Zone is not a “natural area” in terms of the National Environmental Standards for Electricity Transmission Activities 2010.</p> <p>B1.2.1.3 Limited Discretionary Activities The following are limited discretionary activities throughout the Rural Zone</p> <ul style="list-style-type: none"> • Indigenous vegetation disturbance within 10m of, or within, any wetland, which is not provided for as a permitted activity by Rule B1.2.1.1, but EXCLUDING non-complying activities listed in Rule B1.2.1.5. • Indigenous vegetation disturbance on land identified within Appendix 9: Wetlands, Areas of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna, which is not provided for as a permitted activity by Rule B1.2.1.1, but EXCLUDING non-complying activities listed in Rule B1.2.1.5. • Indigenous vegetation disturbance which is not provided for as a permitted activity in Rule B1.2.1.1 or as a limited discretionary activity in Rule B1.2.1.3, but EXCLUDING non-complying activities listed in Rule B1.2.1.5. <p>B1.2.1.3.1 Matters to which Discretion is Reserved For the limited discretionary activities in Rule B1.2.1.3 above, a resource consent is required. In considering whether to grant such consents, the District Council will limit the exercise of its discretion to the following matters:</p> <p>g. For indigenous vegetation activities specified in Rule B1.2.1.3</p> <ul style="list-style-type: none"> • Compliance with standards, conditions and terms in Part B2 of the Plan
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		<ul style="list-style-type: none"> • the analysis of findings of an ecological assessment of the subject area and the effects of the activity on the matters set out under section B6.1.2 bullet point 7 of the Plan • effects on the transportation infrastructure • the payment of administrative charges • the requirements of financial contributions • the completion of works and services which may be, but are not limited to, those works and services detailed in Section C2 of the Plan • proximity to “Protected Area” (as defined in this Plan) <p><i>B1.2.1.5 Non-Complying Activities</i> The following are some activities that have been identified as non-complying activities in the Rural Zone (but are not limited to this list), and shall be assessed in relation to the Assessment Criteria for Discretionary and Non-Complying Activities in Part B.5:</p> <ul style="list-style-type: none"> • Indigenous vegetation disturbance on the volcanic ring plain as identified in “Figure 2: Landforms of the Taranaki Region” in the Stratford District Plan where the activity is not provided for as a permitted activity by Rule B1.2.1.1. 												
Waitomo District Plan	Operative March 2009	<table border="1"> <tr> <td colspan="2" data-bbox="779 810 2024 842">11.5 Rules</td> </tr> <tr> <td data-bbox="779 842 1003 874">11.5.1</td> <td data-bbox="1003 842 2024 874"><i>Activity Classification</i></td> </tr> <tr> <td data-bbox="779 874 1003 1018">11.5.1.1</td> <td data-bbox="1003 874 2024 1018"><i>Permitted Activities</i> Any activity that complies with the Conditions for Permitted Activities set out in Rules 11.5.3 and 11.5.4, subject to Rule 11.5.2 and the provisions of Section 12, Landscape Policy Area.</td> </tr> <tr> <td data-bbox="779 1018 1003 1185">11.5.1.3</td> <td data-bbox="1003 1018 2024 1185"><i>Restricted Discretionary Activities</i> Any activity that does not comply with one or two of the Conditions for Permitted Activities in Rule 11.5.3 and 11.5.4. Discretion is restricted to the subject matter of the Condition that is not complied with. This rule does not apply to Rule 11.5.2.1 and 11.5.2.2.</td> </tr> <tr> <td data-bbox="779 1185 1003 1358">11.5.1.4</td> <td data-bbox="1003 1185 2024 1358"><i>Discretionary Activities</i> Any activity described as a Discretionary Activity in Rule 11.5.2, and any activity that does not comply with three or more of the Conditions for Permitted Activities set out in Rule 11.5.4. See also Rule 11.5.4.5 for Discretionary Activity rules relating to clearance of indigenous vegetation.</td> </tr> <tr> <td data-bbox="779 1358 1003 1390">11.5.1.4</td> <td data-bbox="1003 1358 2024 1390"><i>Non-Complying Activities</i></td> </tr> </table>	11.5 Rules		11.5.1	<i>Activity Classification</i>	11.5.1.1	<i>Permitted Activities</i> Any activity that complies with the Conditions for Permitted Activities set out in Rules 11.5.3 and 11.5.4, subject to Rule 11.5.2 and the provisions of Section 12, Landscape Policy Area.	11.5.1.3	<i>Restricted Discretionary Activities</i> Any activity that does not comply with one or two of the Conditions for Permitted Activities in Rule 11.5.3 and 11.5.4. Discretion is restricted to the subject matter of the Condition that is not complied with. This rule does not apply to Rule 11.5.2.1 and 11.5.2.2.	11.5.1.4	<i>Discretionary Activities</i> Any activity described as a Discretionary Activity in Rule 11.5.2, and any activity that does not comply with three or more of the Conditions for Permitted Activities set out in Rule 11.5.4. See also Rule 11.5.4.5 for Discretionary Activity rules relating to clearance of indigenous vegetation.	11.5.1.4	<i>Non-Complying Activities</i>
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11.5.1.4	<i>Discretionary Activities</i> Any activity described as a Discretionary Activity in Rule 11.5.2, and any activity that does not comply with three or more of the Conditions for Permitted Activities set out in Rule 11.5.4. See also Rule 11.5.4.5 for Discretionary Activity rules relating to clearance of indigenous vegetation.													
11.5.1.4	<i>Non-Complying Activities</i>													

			<i>Any activity identified as a non-complying activity in Rule 11.5.2 or 11.5.3.</i>
		<i>KARST</i>	
			<p><i>Indigenous Vegetation</i></p> <p><i>Within the Rural Zone the removal or clearance of indigenous vegetation, or indigenous wetland vegetation, shall be a Discretionary Activity subject to assessment for significance under Assessment Criteria 11.6.3.</i></p> <p><i>This Rule does not apply to the following forms of clearance or removal of indigenous vegetation which shall be Permitted Activities:</i></p> <ol style="list-style-type: none"> <i>a. The harvesting of indigenous vegetation under a sustainable forest management plan that has been approved under s67(f) of the Forests Amendment Act 1993.</i> <i>b. The trimming of indigenous vegetation for the purposes of maintaining security of supply of overhead services.</i> <i>c. Any impacts on the understorey of plantation forests as a result of harvesting those forests.</i> <i>d. Indigenous vegetation affected by normal maintenance of existing productive pasture and productive forests, and maintenance of existing tracks and fences, provided that on the banks of any water body bank stability is maintained and vegetation is retained as far as practicable.</i> <i>e. Establishment of new tracks and fences through indigenous vegetation where the clearance of indigenous vegetation is no more than 10 metres in width and the track or fence line is constructed to farming best practice, provided that the indigenous vegetation to be cleared lies more than 10 metres from any water body.</i> <i>f. Clearance of indigenous vegetation whose area to be cleared does not contain significant indigenous vegetation or habitat (refer to Assessment Criteria 11.6.3).</i> <p><i>Note 1: The Waikato Regional Plan contains Rules relating to the clearance of vegetation in 'high risk erosion areas', and adjacent to watercourses, and Rules relating to tracking and earthworks. Resource consents may be required from the Waikato Regional Council for these activities.</i></p>

			<p><i>Note 2: Clearance of indigenous vegetation in the Landscape Policy Area of the Rural Zone is the subject of specific provisions in Rule 12.5.1.4.</i></p> <p><i>Note 3: For the purposes of Rule 11.5.4.5(f) refer to Methods and Incentives 11.7.1. Advisory note: Rule 11.5.4.5 does not apply to indigenous vegetation clearance activities regulated under the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. Those regulations prevail over these rules in relation to plantation forestry activities. Rule 11.5.4.5(c) is removed to avoid conflicting with the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</i></p>
<p>South Taranaki District Plan</p>	<p>Operative 2015</p>	<p>17.1.1 Permitted Activities</p>	<p><i>d. For indigenous vegetation not identified as a Significant Natural Area in Schedule 2, any clearance, modification, damage or destruction of indigenous vegetation for the following purposes:</i></p> <ul style="list-style-type: none"> <i>i. Required for the operation, maintenance, and upgrading of existing network utilities, or roads, tracks, drains, structures and fence lines but excluding their expansion and relocation.</i> <i>ii. The removal of dead wood, wind-thrown trees or diseased vegetation.</i> <i>iii. Required as emergency work to safeguard life, dwelling units, or network utilities from immediate danger.</i> <i>iv. Removal of re-growth from previously cleared land, which has grown within 15 years of last being cleared, and does not involve trees greater than 30cm measured at 1.4m from the highest point of ground level at the base of the tree.</i> <i>v. Forestry Harvesting</i> <i>vi. The modification or removal of kanuka and/or manuka when not accompanied by other indigenous tree species; or when the manuka and/or kanuka is less than 25 years of age.</i> <i>(vii) Required for pest control undertaken by the Department of Conservation, Taranaki Regional Council or South Taranaki District Council.</i>

		<p>vii. <i>The removal of up to 50m³ of timber from any area of indigenous vegetation per 10 year period for the following purposes:</i></p> <ol style="list-style-type: none"> a. <i>Private use (i.e. the timber must not be sold or gifted to third parties).</i> b. <i>Use by tāngata whenua for cultural purposes (e.g. for rongoa, waka, traditional buildings and marae based activities).</i> <p>viii. <i>Except where specifically listed in Rules (i) – (viii) above, any clearance, modification, damage or destruction of indigenous vegetation, regardless of land ownership, where:</i></p> <ol style="list-style-type: none"> a. <i>Indigenous trees at less than 30cm in diameter measured at 1.4m from the highest point of ground level at the base of the tree; and</i> b. <i>Four or fewer indigenous trees at least 6m in height, per 1ha area (or if less than 1ha, there are four or fewer trees at least 6m in height in the within an area of contiguous indigenous vegetation); and</i> c. <i>The area of contiguous indigenous vegetation is either:</i> <ul style="list-style-type: none"> • <i>Smaller than 0.5ha in the Ring Plain and Marine Terraces Areas; OR</i> • <i>Smaller than 2ha in the Hill Country Area.</i> <p><i>As shown on the map in Natural Environment Appendix 2</i></p> <p>17.1.4 Discretionary Activities</p> <ol style="list-style-type: none"> e. <i>Any clearance, modification, damage or destruction of indigenous vegetation not identified as a Significant Natural Area in Schedule 2 regardless of land ownership, or unless the activity is provided for under Rule 17.1.1(d) or Rule 17.1.3.</i>
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