

**Kapiti Coast District Plan
Proposed Plan Change 1F
(Modification of Indigenous
Vegetation and Update to Key
Indigenous Tree Species List)
and Section 32 Evaluation
Report**

June 2022

Proposed Plan Change 1F - Amendments to Rule ECO-R6 and ECO-Table 1

Notes:

1. Deletion is shown as strike-through (~~example~~)
2. Addition is shown as underlined (example)

Note: In accordance with section 86B(3)(b) and (c) the following proposed changes to the Kapiti Coast District Plan have immediate legal effect on and from the date on which this plan change is publicly notified under clause 5 of Schedule 1 of the Resource Management Act 1991. This note is for explanatory purposes and does not form part of the plan change.

Amend rule ECO-R6 as follows:

ECO-R6

The *modification* of ~~any~~ indigenous vegetation, that is:

1. located within an ecological site listed in [Schedule 1](#) excluding trees on an urban environment allotment that are not listed in Schedule 2; or
2. a key indigenous *tree* listed in [ECO-Table 1](#) and exceeds either of the maximum size criteria diameter or *height* (excluding *trees* planted by humans; and excluding trees on an urban environment allotment that are not listed in Schedule 2); or
3. a *key indigenous tree* listed in [Schedule 2](#); or
4. a *rare and threatened vegetation species* listed in [Schedule 3](#); or
5. in or within 20 metres of a *waterbody* or the coastal marine area where it not within the *urban environment*, (excluding planted vegetation);

is a *controlled activity* within the following *zones* and precincts:

- a) General Residential Zone
- b) Ngārara Development Area
- c) Waikanae North Development Area
- d) Airport Zone
- e) Town Centre Zone
- f) Metropolitan Centre Zone
- g) Hospital Zone
- h) General Industrial Zone
- i) Local Centre Zone
- j) Mixed Use Zone
- k) Rural Lifestyle Zone
- l) Rural Eco-Hamlet Precinct
- m) Future Urban Zone
- n) Open Space Zone

Controlled Activity

Standards

1. The *modification of indigenous vegetation* must be limited to:
 - up to a maximum of two indigenous vegetation trees within a five year period on an allotment.
 - *modification of ~~vegetation trees~~ that ~~is~~ are damaged, dead or dying; or ~~have~~s sustained storm damage; or ~~is~~ are fatally diseased such that:*
 1. ~~a. the indigenous vegetation is no longer independently viable; or~~
 - ii. the tree(s) presents a demonstrable imminent risk of serious harm to people or ~~property~~ a building(s) or ~~risks~~ significantly damaging surrounding protected vegetation; and
 - ii. The demonstrable imminent risk of serious harm to people or buildings cannot be addressed via *trimming* under rule ECO-R3.
 - iii. an arborist who has attained the New Zealand Qualifications Authority ~~National Certificate~~ New Zealand Diploma in Arboriculture Level ~~4~~ 6 or equivalent qualification has

Matters of Control

- (i) The necessity, extent and method of the proposed ~~vegetation removal~~ *modification* of indigenous trees to address the imminent demonstrated risk.
- (ii) The species, size, location, and timing of planting of ~~any plant species~~ replacement *indigenous vegetation* to ~~compensate~~ remedy ~~for~~ the loss of *indigenous tree(s) vegetation*.
- (iii) Any remedial work necessary to restore the site after the *modification* activity is complete.
- (iv) Public safety.
- (v) Measures to avoid, remedy or mitigate *effects* on *tāngata whenua* values.
6. Methods and activities to ensure the maintenance of indigenous biodiversity.
7. Methods and activities to ensure positive ecological contributions of the modified trees on the application *property*.

certified in writing that Conditions (i) and (ii) above ~~is~~ are met; or

b. c. *Modification of planted indigenous vegetation* where the applicant can demonstrate that it was not legally required to be planted for ecological restoration or enhancement purposes or as a *biodiversity offset*.

Note: For *notable trees* listed in [Schedule 8](#) see [TREE-R2](#), [TREE-R3](#), and [TREE-R4](#).

Criteria for notification

The written approval of persons will not be required and applications under this rule will not be served on any person or notified.

Amend ECO-Table 1 as follows:

Common Name	Species	Māori Name	Dimensions That Relate to Rules	
			Diameter (circumference in cm)	Height (m)
White tea tree	Kunzea robusta or Kunzea amathicola	Kānuka	15.0 (47)	3
<u>Coastal kānuka</u>	<u>Kunzea amathicola</u>	<u>Rawiritoa, kānuka</u>	<u>5.0 (15)</u>	<u>1</u>
<u>Kānuka</u>	<u>Kunzea robusta</u>	<u>Rawirinui, kānuka</u>	<u>15.0 (47)</u>	<u>3</u>

Proposed Plan Change 1F – Section 32 Evaluation

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1 Overview and Purpose

1.1 Introduction to the resource management issue

This evaluation report has been prepared, in accordance with section 32 of the Resource Management Act 1991 (RMA), to support a proposed change to the Operative Kapiti Coast District Plan 2021 (the District Plan).

This section 32 evaluation report addresses how the District Plan:

1. provides for the *modification*¹ of significant indigenous vegetation as a controlled activity under Rule ECO-R6; and
2. identifies and distinguishes between two species of indigenous kānuka (*Kunzea robusta* and *Kunzea amathicola*) by diameter and height.

Implementation of this rule has demonstrated the rule can be used to modify (including remove) large amounts of protected significant indigenous vegetation, and this can result in significant adverse effects on significant indigenous vegetation and habitats of significant indigenous fauna. This outcome is at odds with the relevant objectives and policies of the District Plan, the Regional Policy Statement for the Wellington Region (RPS), and Section 6 (c) of the RMA.

The Council has a specific function under Section 31()(b)(iii) of the RMA to maintain indigenous biodiversity. Implementation of Rule ECO-R6 has identified unanticipated outcomes leading to biodiversity loss that are at odds with this requirement.

The purpose of the plan change is to rectify this by reducing the scale of modification possible under the controlled activity rule while ensuring the intent of the rule is largely retained – i.e. to provide a simple consent path for the modification of indigenous vegetation where permitted activity trimming is insufficient to address an imminent significant risk to other indigenous vegetation, or the health and safety of people and buildings. To facilitate this, the plan change also proposes to shift the focus of the rule from indigenous vegetation to indigenous trees.

It is important to note the *trimming*² of protected significant indigenous vegetation for the following reasons will remain a permitted activity under rule ECO-R3:

- Trimming that is necessary to avoid an imminent threat to the safety of persons or damage to lawfully established buildings;
- Trimming of indigenous vegetation that is broken, deadwood or chronically diseased;
- Trimming that is necessary to provide for the ongoing safe and efficient operation and maintenance of telecommunications, radio communication and other *network utility*;

There are a number of other permitted activity standards for trimming, however the above are those that are also addressed under the status quo for ECO-R6. The existence of the permitted activity trimming standards will limit the impact of the proposed changes to ECO-R6, as the

¹ The District Plan definition for modification is: **Modification** of vegetation means the felling, removal, damage or destruction of the vegetation including the following activities within the vegetation drip line:

- a) work that involves compaction, sealing or removal of soil; or
- b) drilling or excavation; or
- c) discharge of toxic substances;

but excludes any *trimming* authorised as a *permitted activity* under this Plan.

² The District Plan definition for trimming is: **Trimming** of vegetation means:

1. pruning of vegetation and *trees* including the removal of broken branches, deadwood or diseased vegetation;
2. selective branch removal to increase light and air movement or to improve *tree* health; and
3. but excludes *modification*.

proposed changes will only affect persons wishing to modify significant indigenous vegetation beyond *trimming*.

The plan change also seeks to update and correct the indigenous vegetation species table *ECO-Table 1*. This table identifies the species, circumference and heights of indigenous vegetation that is protected under specific rules within the Ecosystems and Indigenous Biodiversity chapter. Currently, the table incorrectly identifies two species of Kānuka has having the same height and circumference measurements at maturity. As identified in the ecology advice contained in Appendix 1, this is incorrect. One of the species is a much smaller coastal species that has significantly less height and circumference at maturity than the other species. If left unaddressed, this would mean the smaller coastal Kānuka species would never qualify for protection under the relevant rules despite their considerable age and ecological significance.

2 Strategic Directions

The following objectives from the Strategic Directions chapter of the District Plan are relevant to this plan change:

DO-01	Tāngata Whenua
To work in partnership with the <i>tāngata whenua</i> of the District in order to maintain <i>kaitiakitanga</i> of the District’s resources and ensure that decisions affecting the natural <i>environment</i> in the District are made in accordance with the principles of Te Tiriti o Waitangi (Treaty of Waitangi).	

This strategic objective outlines how the Council approaches its partnership approach with *tāngata whenua* when carrying out its resource management functions and duties. Specifically, the Council has engaged with all three iwi authorities³ during the development of this plan change, and considered all input from *mana whenua* in the development of the proposed provisions in a genuine and meaningful way.

DO-02	Ecology and Biodiversity
To improve indigenous biological diversity and ecological resilience through: <ul style="list-style-type: none"> • protecting areas of <i>significant indigenous vegetation</i> and <i>significant habitats of indigenous fauna</i>; • encouraging restoration of the ecological integrity of indigenous ecosystems; • enhancing the health of terrestrial and aquatic ecosystems; and • enhancing the <i>mauri of waterbodies</i>. 	

This strategic objective is relevant as the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under section 6 (c) of the RMA. In its current form, Rule ECO-R6 fails to appropriately recognise and provide for this matter of national importance.

DO-03	Development Management
To maintain a consolidated urban form within <i>existing urban areas</i> and a limited number of <i>identified growth areas</i> which can be efficiently serviced and integrated with existing townships, delivering:	

³ The iwi authorities are Te Rūnanga o Toa Rangatira, Te Atiawa ki Whakarongotai, and Ngā Hapū o Ōtaki.

2. urban areas which maximise the efficient end use of energy and integration with *infrastructure*;
3. a variety of living and working areas in a manner which reinforces the function and vitality of centres;
4. resilient communities where *development* does not result in an increase in *risk* to life or severity of damage to property from *natural hazard* events;
5. higher residential densities in locations that are close to centres and public *open spaces*, with good access to public transport;
6. management of *development* in areas of special character or amenity so as to maintain, and where practicable, enhance those special values;
7. sustainable natural processes including *freshwater* systems, areas characterised by the *productive potential* of the *land*, ecological integrity, identified landscapes and features, and other places of significant natural amenity;
8. an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District; and
9. management of the location and *effects* of potentially incompatible land uses including any interface between such uses.

This strategic objective is relevant as it seeks to maintain a compact urban form that delivers sustainable natural processes including ecological integrity. Many areas of significant indigenous vegetation are located within existing urban areas or are located on land that is zoned for urban development that is yet to occur.

DO-04	Coastal Environment
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To have a coastal environment where:

- a. areas of outstanding *natural character* and *high natural character*, *outstanding natural features and landscapes*, areas of *significant indigenous vegetation* and *significant habitats of indigenous fauna* are identified and protected;
- b. areas of outstanding *natural character* and *high natural character* are restored where degraded;
- c. the *effects* of inappropriate *subdivision*, use and *development* are avoided, remedied, or mitigated;
- d. public access to and along the coast to facilitate active and passive recreational use is maintained and enhanced while managing inappropriate *vehicle access*; and
- e. Inappropriate *development* does not result in further loss of coastal dunes in the area mapped as the coastal environment.

This strategic objective is relevant as many identified areas of significant indigenous vegetation and significant habitats of indigenous fauna on the Kāpiti Coast are found within the coastal environment. The objective aims to identify and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna within the coastal environment.

In addition, the effects of subdivision, use and development that results in the loss of indigenous biodiversity within the coastal environment may be considered inappropriate under clause 3 of the objective.

DO-08 Strong Communities

To support a cohesive and inclusive community where people:

- have easy access and connectivity to quality and attractive public places and local social and community services and facilities;
- have increased access to locally produced food, energy and other products and resources;
- have improved health outcomes through opportunities for active living or access to health services; and
- have a strong sense of safety and security in public and private spaces.

This strategic objective is relevant as it aims to ensure people have a strong sense of safety in public and private spaces. One of the reasons for rule ECO-R6 is to enable people to address risks to the health and safety of themselves and buildings, by providing a simple consent path to remove indigenous vegetation that poses a safety risk. This objective has links to the purpose of the RMA, which includes managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.

3 Response to the Issue: Proposed Plan Change 1F

The proposed amendments to the District Plan rule ECO-R6 and ECO-Table 1 are contained in the Proposed Plan Change 1F section of this report, above this section 32 evaluation report. In summary the proposed amendments:

1. change the standards to limit modification to indigenous *trees*⁴ rather than all *indigenous vegetation*⁵;
2. introduce a limit on the number of trees that can be modified on an allotment to two indigenous trees within a five year period;
3. focus the standards of the rule to addressing demonstrable imminent risk of serious harm to people or property, or risk of significantly damaging surrounding protected vegetation;
4. update and upgrade the required level of qualification for an arborist to identify risks posed by trees;
5. change and add to the matters of control to address potential adverse effects on indigenous biodiversity, including methods to ensure positive ecological contributions of the modified vegetation on the application site; and
6. update ECO-Table 1 to correct errors to the circumference and height specifications for Coastal kānuka (*Kunzea amathicola*).

4 Section 32 Requirements

Section 32 of the Resource Management Act 1991 (RMA) requires, broadly, that before advancing plan provisions a Council must evaluate whether the proposed provisions are the most appropriate way to achieve the purpose of the RMA.

⁴ The District Plan defines trees as: **Trees** means a woody plant 3 metres or greater in *height* includes a Tree Fern, but excludes a vine with a stem diameter less than 50 mm.

⁵ The District Plan defines trees as: **Indigenous vegetation** means vegetation or plant species, including trees, which are native to the Kapiti Coast District. Indigenous Vegetation does not include "indigenous vegetation" as defined in and regulated by the NES-PF.

Section 32 (1)(a) of the RMA requires that an evaluation must examine the extent to which any proposed objectives are the most appropriate way to achieve the purpose of the RMA. No new objectives, and no changes to operative Plan objectives, are proposed by PC1F. The relevant operative Plan objectives remain appropriate.

Section 32 (1)(b) of the RMA requires an evaluation of whether the provisions proposed by PC1F are the most appropriate way to achieve the District Plan objectives. Section 32 (3) clarifies that, for a plan change, this evaluation must consider both the objective of the plan change (the purpose of the plan change) and the operative District Plan objectives, to the extent that those objectives remain relevant. The evaluation is required to:

- a. identify and consider other reasonably practicable options for achieving the objectives (s. 32 (1) (b) (i)); and
- b. assess the efficiency and effectiveness of the proposed provisions in achieving the objectives (s. 32 (1) (b) (ii)), and this is most usefully done by comparison with the reasonably practicable alternative options.

The assessment of efficiency and effectiveness required by s. 32 (1) (b) (ii) is required to identify and assess the benefits and costs of the environmental, economic, social and cultural effects anticipated from implementing the proposed provisions. This must include consideration of opportunities for economic growth and employment that are anticipated to be provided or reduced. Benefits and costs are to be quantified, if practicable. The s. 32 (1) (b) (ii) assessment is also required to assess the risk of acting or not acting, if there is insufficient information about the subject matter of the provisions.

The evaluation is required to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from implementing the proposal.

5 Purpose of the Plan Change

PC1F is an 'amending proposal' for the purpose of section 32. This evaluation is required to consider the objective or purpose of the proposed Plan change, in addition to the objectives of the operative Plan.

Currently, the District Plan controlled activity rule ECO-R6 provides for the modification⁶ of indigenous vegetation, including indigenous vegetation that is identified and protected as ecological sites, or is a rare and threatened vegetation species where:

- a) *The modification of indigenous vegetation must be limited to:*
 - a. *modification of vegetation that is damaged, dead or dying; or has sustained storm damage; or is fatally diseased such that:*
 - i. *the indigenous vegetation is no longer independently viable or presents a risk of serious harm to people or property or risks damaging surrounding protected vegetation; and*
 - ii. *an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that Condition (i) above is met; or*

⁶ Definition: **modification** of vegetation means the felling, removal, damage or destruction of the vegetation including the following activities within the vegetation drip line:

1. work that involves compaction, sealing or removal of soil; or
2. drilling or excavation; or
3. discharge of toxic substances;

but excludes any *trimming* authorised as a *permitted activity* under this Plan.

b. Modification of planted indigenous vegetation where the applicant can demonstrate that it was not planted for ecological restoration or enhancement purposes or as a biodiversity offset.

There are no limits on the amount of indigenous vegetation that can be modified under the existing rule, and any actual and potential ecological effects are not a relevant matter. The 'viability' of indigenous vegetation is required to be determined by an arborist, who are unlikely to have qualifications and experience in ecology to enable them to identify the potential resulting adverse ecological effects that could occur through the use of the rule at large scale.

The intent of the rule is to enable the modification of dangerous, dying or diseased vegetation to be removed where the vegetation is no longer independently viable and poses a risk to the health and safety of people, property and other protected vegetation.

Implementation of this rule has identified an instance where the Council was required to issue a controlled activity resource consent for the removal of 104 protected indigenous trees from a lowland coastal remnant ecological site. The actual and potential adverse effects on the indigenous biodiversity values that would result from this scale of removal of mature indigenous trees from the ecological site, and the issues associated with relying on advice from an arborist to grant the resource consent are discussed in the independent ecological report prepared by Cardno (Appendix 1). It is noteworthy that Council resource consent records show the Council has issued only two resource consents under the rule since it had legal effect upon public notification in September 2015, and one of those resource consents is that described above.

Following the granting of the controlled activity resource consent for the removal of 104 protected trees, a subdivision consent application was lodged for the same site. It appears the modification (removal) of the 104 indigenous trees was carried out under the controlled activity resource consent to assist, at least in part, in the preparation of the site for the desired layout of the subdivision. An assessment of the resulting adverse ecological effects was not carried out under the controlled activity resource consent, therefore the use of the rule in this way enabled the consent path for the subdivision consent application to proceed without having to address the adverse effects on indigenous vegetation and biodiversity authorised under the controlled activity rule. The resulting adverse effects on the significant indigenous vegetation (and potentially, fauna) are described by the independent ecologist as potentially significant adverse effects. This outcome is contrary to Part II of the RMA and the objectives and policies of the district plan. It also means the status quo can result in the Council failing to meet its duty to maintain indigenous biodiversity under section 31 of the RMA.

The purpose of the plan change is to:

1. limit the extent of vegetation modification possible under the rule, and to narrow its focus to address safety issues associated with indigenous trees.
2. ensure future resource consent applications under the rule do not result in significant adverse effects on indigenous biodiversity.
3. ensure the Council is able to meet its duty to maintain indigenous vegetation by requiring a restricted discretionary activity resource consent for proposals that propose modification beyond the controlled activity rule.
4. ensure proposals that would result in significant adverse effects on indigenous biodiversity are processed as a restricted discretionary activity with expert ecological input into the decision making processes as required.
5. ensure arborists supporting resource consent applications under ECO-R6 are appropriately qualified to assess health and safety risks posed by trees.

Permitted activity standards for the trimming of protected indigenous vegetation to address safety risks and to trim dead and chronically diseased branches will remain unchanged.

6 Regulatory and policy direction

In carrying out a section 32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management *means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*

1. *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
2. *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
3. *avoiding, remedying, or mitigating any adverse effects of activities on the environment’.*

In achieving this purpose, authorities also need to recognise and provide for the matters of national importance identified in section 6, have particular regard to other matters referred to in section 7 and take into account the principles of the Treaty of Waitangi referred to in section 8.

RMA Section 6 – Matters of national significance

The section 6 matters relevant to this plan change are:

Section	Relevant matters
Section 6(a)	<p>This section of the Act requires the Council to recognise and provide for, as a matter of national importance the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.</p> <p>Many indigenous trees and areas of significant vegetation and significant habitats of indigenous fauna are located within the coastal environment.</p>
Section 6(c)	<p>This section of the Act requires the Council to recognise and provide for, as a matter of national importance the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.</p> <p>This is directly relevant to the plan change.</p>
Section 6(e)	<p>This section of the Act requires the Council to recognise and provide for, as a matter of national importance, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.</p> <p>This is relevant to the plan change as one of the criteria used in the identification of areas of significant biodiversity in the district plan (as required by the RPS) is:</p> <p><i>Tāngata whenua values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to tāngata whenua, identified in accordance with tikanga Māori.</i></p>

RMA Section 7 – Other matters

Section 7 of the Act requires the Council in exercising its functions and powers in relation to managing the use, development and protection of natural and physical resources to have particular regard to a number of matters. The section 7 matters relevant to this plan change are:

Section	Relevant matters
Section 7(a)	Kaitiakitanga
7(aa)	The ethic of stewardship
7(b)	The efficient use and development of natural and physical resources
7(c)	The maintenance and enhancement of amenity values
7(d)	Intrinsic values of ecosystems
7(f)	Maintenance and enhancement of the quality of the environment
7(g)	Any finite characteristic of natural and physical resources

These section 7 matters are all relevant to the plan change. The maintenance and enhancement of the quality of the environment, the intrinsic values of ecosystems, and the recognition of any finite characteristic of natural and physical resources are directly relevant to the significant indigenous vegetation and habitat types addressed by the plan change. Many of the lowland coastal remnants of significant vegetation and habitats managed under the rule are a finite resource in the district, with only a small fraction of them remaining. All these matters are linked to the Council's section 31 duty to maintain indigenous biodiversity.

The feeling of safety from hazards in private spaces can contribute toward the maintenance and enhancement of amenity values.

RMA Section 8 – Treaty of Waitangi

The section 8 principles that are relevant to this topic are

Section	Relevant matters
Section 8	<p>Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. This requires the Council to work in partnership with mana whenua to actively protect their interests.</p> <p>The Council and mana whenua have worked in the spirit of partnership to review and develop this plan change.</p>

RMA Section 31 – Maintenance of indigenous biological diversity

Section 31(1)(b)(iii) requires that every territorial authority, as a function of giving effect to the purpose of the RMA, controls the actual or potential effects of the use of land including where necessary for the maintenance of indigenous biological biodiversity. The plan change addresses this section 31 requirement.

RMA Section 76 - Urban Environment Allotments

Section 76 (4A) - (4D) of the RMA put in place specific identification requirements for district plan rules seeking to protect trees on "urban environment allotments". The district plan rules already give effect to these requirements through the structure and content of the relevant rules and schedules. The plan change does not propose any changes to this rule framework, and is therefore in compliance with section 76(4A – (4D) of the RMA.

RMA Section 86B - Legal effect of proposed provisions

Under section 86B of the RMA, rules in proposed plans that protect areas of significant indigenous vegetation or habitats of indigenous fauna have immediate legal effect from the date of notification. As the plan change proposes amendments to a rule that protects areas of significant indigenous vegetation or habitats of indigenous fauna, it will have immediate legal effect from the date of public notification.

RMA Section 104 - Offsetting and compensation

Section 104(1) (ab) states that when considering an application for a resource consent, the consent authority must have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. This is a requirement for the resource consent process, and it is not required to specify this in any relevant district plan rules. However, as the rule is a controlled activity, to assist the Council in considering positive effects, the plan change proposes to add specific matters of control that give the Council the ability to ensure positive ecological effects, and in doing so ensure indigenous biodiversity is maintained in accordance with section 31 of the RMA.

6.1 National Instruments

Under section 75(3) of the RMA, a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand Coastal Policy statement (the NZCPS);
- (ba) any national planning standard; and
- (c) any regional policy statement.

The relevance of these higher-level statutory planning documents is identified below.

National Policy Statements (NPS) & New Zealand Coastal Policy Statement

There are currently five:

- 1) National Policy Statement for Freshwater Management 2020 (NPS-FM)
- 2) National Policy Statement on Urban Development 2020 (NPS-UD)
- 3) National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG)
- 4) New Zealand Coastal Policy Statement 2010 (NZCPS)
- 5) National Policy Statement for Electricity Transmission 2008 (NPS-ET)

Of these NPS only the NZCPS is relevant.

The purpose of the NZCPS is to state objectives and policies in order to achieve the purpose of the RMA in relation to the protection and enhancement of the coastal environment of New Zealand. It took effect on 3 December 2010.

The following NZCPS provisions are relevant to the plan change:

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*

- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- (i) recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- (ii) promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- (iii) incorporating mātauranga Māori into sustainable management practices; and*
- (iv) recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- (i) the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- (ii) some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- (iii) functionally some uses and developments can only be located on the coast or in the coastal marine area;*
- (iv) the coastal environment contains renewable energy resources of significant value;*
- (v) the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;*
- (vi) the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;*
- (vii) the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and*
- (viii) historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- a. recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;*

- b. *involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;*
- c. *with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;*
- d. *provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;*
- e. *take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and*
 - i. *where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and*
 - ii. *consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;*
- f. *provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:*
 - i. *bringing cultural understanding to monitoring of natural resources;*
 - ii. *providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;*
 - iii. *having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non commercial Māori customary fishing; and*
- g. *in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:*
 - i. *recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and*
 - ii. *provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.*

Policy 11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

1. *avoid adverse effects of activities on:*

- a. *indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
 - b. *taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
 - c. *indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
 - d. *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
 - e. *areas containing nationally significant examples of indigenous community types; and*
 - f. *areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
2. *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
- a. *areas of predominantly indigenous vegetation in the coastal environment;*
 - b. *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
 - c. *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
 - d. *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
 - e. *habitats, including areas and routes, important to migratory species; and*
 - f. *ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

National Environmental Standards

There are currently nine national environmental standards (NES):

1. National Environmental Standards for Freshwater 2020 (NES-F)
2. National Environmental Standards for Plantation Forestry 2017 (NES-PF)
3. National Environmental Standards for Telecommunication Facilities 2016 (NES-TF)
4. National Environmental Standards for Air Quality 2011 (NES-AQ)
5. National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
6. National Environmental Standards for Electricity Transmission Activities 2009 (NES-ETA)
7. National Environmental Standards for Sources of Drinking Water 2007 (NES-SDW)
8. National Environmental Standards for Marine Aquaculture 2020 (NES-MA)
9. National Environmental Standards for Storing Tyres Outdoors 2021 (NES-STO)

The NES-F manages the modification of indigenous vegetation within and in close proximity to wetlands, however the implementation of this NES falls under the jurisdiction of the Regional Council.

The NES-PF manages the modification of indigenous vegetation within plantation forestry. However, under Regulation 6(2)(b) of the NES-PF, rules in the District Plan may be more stringent than those in the NES if protecting significant natural areas. Rules in the District Plan that have been developed to give effect to Policy 11 of the NZCPS may also be more stringent than the rules under the NES-PF.

Regulation 93(2)(d) of the NES-PF permits the clearance of indigenous vegetation in a significant natural area associated with a plantation forestry activity if the indigenous vegetation is overgrowing a forestry track that has been used within the last 50 years.

The NES-ETA manages the modification vegetation in relation to existing transmission lines. The NES sets out the consenting pathway for the modification of vegetation, requiring controlled or restricted discretionary activity consent if the vegetation proposed for modification is restricted by a rule in a plan. The Kāpiti Coast District Council is responsible for the implementation of these vegetation provisions.

Regulations 44, 45, 48 and 49 of the NES-TF address the management of trees, significant trees, significant habitats for indigenous vegetation, and significant habitats of indigenous fauna in relation to Telecommunications Facilities. These regulations state that regulated activities under the NES-TF that affect these matters must comply with any relevant rules in the district plan.

There are no other NESs relevant to the plan change.

National Planning Standards

The District Plan has been amended to give effect to the National Planning Standards requirements for structure, defined terms, and mapping. Plan Change 1F addresses the modification of indigenous vegetation across the entire district.

The amendments proposed by Plan Change 1F are located in the Ecosystems and Indigenous Biodiversity Chapter of the District Plan. The plan change is drafted in accordance with the structure, defined terms, and all other relevant requirements of the National Planning Standards.

National Guidance Documents

The following national guidance documents and reports are considered relevant to this plan change.

Note: proposed national direction, such as proposed national policy statements, that have completed the public consultation phase but have not yet been released in their final form have been considered as guidance until they are gazetted. While draft national policy documents do not have any legal weight, they can provide an indication of the Governments priorities and therefore have been considered in the drafting of this plan change.

Document	Relevant matters
Proposed National Policy Statement for Indigenous Biodiversity (NPS-IB)	<p>The initial draft NPS-IB was consulted on as a discussion document between November 2019 and March 2020. The Government planned to finalise the NPS-IB in mid-2020, and then again by the end of 2021.</p> <p>An updated exposure draft of NPS-IB was released for consultation on 9 June 2022. The Ministry for the Environment’s webpage⁷ states the expected gazettal date of the NPS-IB is December 2022.</p> <p>The exposure draft of the NPS-IB sets out a range of measures that require councils to take a more proactive role</p>

⁷ [Proposed national policy statement for indigenous biodiversity | Ministry for the Environment](#)

	<p>in protecting biodiversity. It is likely the NPS-IB will require the Council to carry out additional indigenous biodiversity surveys and protection via rules in the district plan, and change existing rules in the district plan to ensure they give effect to the NPS-IB.</p> <p>At this time the final content of the NPS-IB is not known. This will need to be carefully considered should a hearing be held and decisions released after gazettal of the NPS-IB to ensure the plan change is not inconsistent with any new requirements.</p>
<p>Environment Aotearoa 2019, Theme 1: Our Ecosystems and Biodiversity, Ministry for the Environment & Stats NZ.</p>	<p>The report is the Ministry’s three-year report on the state of the environment in New Zealand.</p> <p>The report identifies that:</p> <p><i>Our unique native biodiversity is under significant pressure from introduced species, pollution, physical changes to our landscapes and coast, harvesting of wild species, and other factors. Almost 4,000 of our native species are currently threatened with or at risk of extinction.</i></p> <p>The report identifies a continued loss of biodiversity, with farming and urban expansion as key contributors to the loss.</p>
<p>Statement of National Priorities for Protecting Rare and Threatened Species on Private Land, Department of Conservation (2007)</p>	<p>The Statement identifies four national priorities for protecting indigenous biodiversity:</p> <ol style="list-style-type: none"> 1. To protect indigenous vegetation associated with land environments, that have 20% or less remaining in indigenous cover (as defined by Land Environments of New Zealand). 2. To protect indigenous vegetation associated with sand dunes and wetlands; ecosystem types that have become uncommon due to human activity. 3. To protect indigenous vegetation associated with ‘originally rare’ terrestrial ecosystem types not already covered by priorities 1 & 2. 4. To protect habitats of acutely and chronically threatened indigenous species.
<p>New Zealand Biodiversity Strategy Department of Conservation (2000-2020)</p>	<p>The Strategy establishes goals for the protection of indigenous biodiversity. The directly relevant goals are:</p> <ol style="list-style-type: none"> 1. Treaty of Waitangi – Protect iwi and hapū interests in biodiversity and strengthen partnerships between government and iwi and hapū in protecting and sustainably using indigenous biodiversity. 2. Halt the decline of New Zealand’s indigenous biodiversity – maintain and restore natural habitats and ecosystems; and maintain and restore populations of indigenous species and subspecies. The remaining two goals are still considered relevant, but to a lesser degree: 3. Community and individual action, responsibility and benefits – improve community understanding of

	<p>biodiversity and the importance of protecting it and allow communities to enjoy the benefits of protecting biodiversity.</p> <p>4. Genetic resources of introduced species – maintain introduced species that are important for economic, biological and cultural reasons.</p>
New Zealand Biodiversity Action Plan, Department of Conservation (2016-2020)	<p>The Biodiversity Action Plan is an update on the biodiversity strategy. The Action Plan has five goals. Of relevance are the following two goals:</p> <ul style="list-style-type: none"> • Reduce pressures on biodiversity and promote sustainable use. • Safeguard ecosystems, species and genetic diversity.
New Zealand Threat Classification System, Department of Conservation, 2018	<p>The NZ Threat Classification System is used to assess the threat status of taxa (species, subspecies, varieties and forma). There are thirty publications that list New Zealand's wild species, according to their threat of extinction.</p>

Although the District Plan is not required to give effect to any of these documents, they provide useful information on the resource management issues and challenges facing the state of indigenous biodiversity in New Zealand.

Regional Policy Statement and Regional Plans

The following identifies the provisions of the RPS and Regional Plans that are relevant to the plan change.

Regional Policy Statement for the Wellington Region 2013 (RPS)

The RPS sets out the framework and priorities for resource management in the region. The RPS identifies the regionally significant issues around the management of the Region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods). District plans are required to give effect to the policies 1-34 of the RPS, and to have particular regard to policies 35-60.

The following RPS provisions are of particular relevance to this plan change:

3.10 Resource management with tangata whenua	
RPS provisions	Description
Objective 23	<i>The region's iwi authorities and local authorities work together under Treaty partner principles for the sustainable management of the region's environment for the benefit and wellbeing of the regional community, both now and in the future.</i>
Policy 66 (R)	Policy 66 aims to enhance involvement of tangata whenua in resource management local authority decision-making.
Objective 24	<i>The principles of the Treaty of Waitangi are taken into account in a systematic way when resource management decisions are made.</i>
Policy 48 (R)	When considering a plan change, Policy 48 requires particular regard is given to the principles of the Treaty of Waitangi, and Tribunal reports and settlements relating to the region.

Objective 25	<i>The concept of kaitiakitanga is integrated into the sustainable management of the Wellington region's natural and physical resources.</i>
Objective 26	<i>Mauri is sustained, particularly in relation to coastal and fresh waters.</i>
Policy 49 (R)	<i>When considering a plan change, Policy 48 requires particular regard be given to recognising and providing for matters of significance to tangata whenua, including kaitiakitanga, mauri, mahinga kai, and significant sites.</i>
3.6 Indigenous Ecosystems	
Objective 16	<i>Indigenous ecosystems and habitats with significant biodiversity values are maintained and restored to a healthy functioning state.</i>
Policy 23 (M)	<p><i>Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria:</i></p> <ol style="list-style-type: none"> <i>1. Representativeness: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in a district or in the region, and: <ol style="list-style-type: none"> <i>a. are no longer commonplace (less than about 30% remaining); or</i> <i>b. are poorly represented in existing protected areas (less than about 20% legally protected).</i> </i> <i>2. Rarity: the ecosystem or habitat has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.</i> <i>3. Diversity: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area.</i> <i>4. Ecological context of an area: the ecosystem or habitat: <ol style="list-style-type: none"> <i>a. enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or</i> <i>b. provides seasonal or core habitat for protected or threatened indigenous species.</i> </i> <i>5. Tangata whenua values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to tangata whenua, identified in accordance with tikanga Māori.</i>
Policy 24 (M)	<i>Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans.</i>

	<i>District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.</i>
Allocation of responsibilities	
Policy 61 (R)	<p><i>Allocation of responsibilities for land use controls for indigenous biodiversity Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to maintain indigenous biodiversity:</i></p> <ul style="list-style-type: none"> • <i>Wellington Regional Council shall be responsible for developing objectives, policies, and methods in the regional policy statement for the control of the use of land to maintain indigenous biological diversity;</i> • <i>Wellington Regional Council shall be responsible for developing objectives, policies, rules and/or methods in regional plans for the control of the use of land to maintain and enhance ecosystems in water bodies and coastal water. This includes land within the coastal marine area, wetlands and the beds of lakes and rivers; and</i> • <i>City and district councils shall be responsible for developing objectives, policies, rules and/or methods in district plans for the control of the use of land for the maintenance of indigenous biological diversity. This excludes land within the coastal marine area and the beds of lakes and rivers.</i>

M = policies which must be **implemented** in accordance with methods stated in the RPS

R = policies to which **particular regard** must be had when varying a district plan

The District Plan must give effect to RPS policies 23 and 24. The District Plan must have particular regard to policies 48, 49 and 66.

Operative regional plans

There are currently five operative regional plans for the Wellington region, listed below:

- Regional Freshwater Plan for the Wellington Region, 1999
- Regional Coastal Plan for the Wellington Region, 2000
- Regional Air Quality Management Plan for the Wellington Region, 2000
- Regional Soil Plan for the Wellington Region, 2000
- Regional Plan for Discharges to Land, 1999

These will all be replaced by the proposed Natural Resources Plan for the Wellington Region.

These plans assist the regional council to carry out its functions in order to achieve the purpose of this RMA. These plans set out how the regional council manages the natural and physical resources that fall under the jurisdiction of the regional council under section 30 of the RMA.

The plan change manages activities that fall under the jurisdiction of the Kāpiti Coast District Council under section 31 (1)(b)(iii) and does not venture into the jurisdiction of the Regional Council. On this basis none of these regional plans are relevant to the plan change.

Proposed Natural Resources Plan – Appeals Version (PNRP)

The PNRP is still in the process of settling appeals to the Environment Court, however, once those are resolved it will replace the existing five operative regional plans identified above.

In a similar light to the assessment above regarding the relevance of the five operative regional plans, the PNRP is not directly relevant to this plan change. Areas of jurisdictional responsibilities between the Kāpiti Coast District Council and the Wellington Regional Council for the management of indigenous vegetation are not affected by the plan change. The plan change is consistent with the allocation of responsibilities specified in RPS Policy 61 (identified in the RPS section above).

7 Planning Documents Recognised by Iwi Authorities

There are currently four documents recognised by iwi authorities in the Kāpiti Coast District. These comprise:

- Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan 2000;
- Nga Korero Kaupapa mo Te Taiao: Policy Statement Manual for Kapakapanui: Te Runanga O Ati Awa ki Whakarongotai Inc;
- Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for the Kāpiti Coast District Council District Plan Review 2009-12 – 2012; and
- *Whakarongotai o te moana o te wai*’ Kaitiakitanga Plan for Te Atiawa ki Whakarongotai (2019).

Ōtaki River and Catchment Iwi Management Plan 2000 (confirmed 10 April 2001)

The Plan sets out a vision for Ngāti Raukawa’s (Ngā Hapū o Ōtaki) exercise of kaitiakitanga in respect of the Ōtaki River and its catchments. The plan provides policy aimed at providing for the ongoing development of a comprehensive framework from which Ngā Hapū o Ōtaki can engage in the management of the Ōtaki River and its resources to ensure fulfilment of its Kaitiakitanga responsibilities. It contains recommendations for action by various agencies to ensure the successful implementation of the Plan. The following provisions are relevant to the plan change:

2.1 Ko te tino tumanako/Primary Vision Statement

2.11 *The mauri of the Ōtaki River and its people are restored and revitalised.*

Secondary Vision Statements

2.2.1 Te Taiao me nga Taonga (Environment)

The mauri of the Ōtaki River and Catchment is protected, sustained, nurtured and enhanced so that Ngāti Raukawa in turn may be protected, sustained, nurtured and enhanced by it.

- *For more than a century the resource of the Ōtaki River have been taken or destroyed at the expense of the taonga. The forests, the land, the water, the food and even the gravel. It is time, now, to restore the balance.*

4.1.2 Ecological Restoration

4.1.2.1 *Objective: To ensure that all future management decisions lead cumulatively to the enhancement of the mauri of the Ōtaki River and Catchment.*

4.1.2.2 *Policy: NHO considers that the environment of the Ōtaki River and catchments has suffered ongoing degradation. In the absence of a*

set of Ngāti Raukawa Environmental Principles it is considered that all policy established by any agency for management of the Ōtaki River catchment must seek ultimately to restore the natural processes necessary for a healthy functioning ecosystem.

4.1.2.3 Explanation:

4.1.2.3.3 *NHoO is concerned that agencies involved in resource management decision-making may accept further degradation or continuation of the status quo rather than advancing restoration as an acceptable baseline.*

4.1.2.4 Methods

(c) *NHoO requests all agencies involved in resource consent processing to ensure that any activities that limit or degrade the ecosystems of the Ōtaki river are balanced by measures that contribute to the overall restoration of the environment. NHoO will weigh all applications for resource consent within the Ōtaki River catchments against this objective in considering such applications.*

4.1.5 Protected Natural Areas (PNA)

4.1.5.1 *Objective: To ensure the ongoing protection of the indigenous biodiversity and ecosystems of the Ōtaki River. To provide for the ongoing enhancement of the mauri of the Tararua Ranges and other PNAs.*

4.1.5.2 *Policy*

- (a) *NHoO will advocate for and endorse the continuing management of the Tararua State Forest Park and other protected natural areas in a manner that ensures that the biodiversity and indigenous ecological systems of these is maintained and enhanced.*
- (b) *NHoO seeks real and ongoing participation by Ngāti Raukawa in the management of the Tararua State Forest Park and other protected natural areas.*

These provisions are directly relevant to the plan change as the Ōtaki River catchment contains many areas of significant indigenous vegetation and significant habitats of indigenous fauna. It can be seen in the above provisions, that Ngā Hapū o Ōtaki seek greater participation in decision making including resource consents that affect identified protected natural areas. Further degradation of natural systems, including forests, within the catchment of Ōtaki River is identified as a concern to Ngā Hapū o Ōtaki.

Nga Korero Kaupapa mo Te Taiao

The document outlines the vision, intent and objectives for compliance with tikanga standards for protection and management of the environment as determined by Te Runanga O Ati Awa ki Whakarongotai Inc with respect to disposal and treatment of effluent, stormwater runoff, heritage protection and management, and representation. Proposed Plan Change 1F does not address any of the above matters.

Te Haerenga Whakamua

Input from tangata whenua was an important part of developing the Proposed District Plan 2012, with 23 meetings held from December 2010 through October 2012 between Council staff and a Tangata Whenua working party nominated by Te Whakaminenga o Kāpiti.

The Tāngata Whenua Working Party was established in 2010 as a mechanism for iwi to participate in the review of the District Plan and to represent the District's three iwi (Te Āti Awa ki Whakarongotai, Ngā Hapū o Ōtaki and Ngāti Toa Rangatira).

The mandate for the working party was to review all aspects of the District Plan on behalf of Te Whakaminenga o Kāpiti and recommend to this forum the direction for iwi policy and Māori world view within this process. This resulted in the preparation of the document Te Haerenga Whakamua being approved by Te Whakaminenga o Kāpiti and endorsed by Council in 2012.

The following provisions of Te Haerenga Whakamua are relevant to the plan change:

Biodiversity	
Suggested Kaupapa and Tikanga	
Manaakitanga	
Behaviour featuring generosity, care, respect and reciprocity toward others.	
Greater emphasis should be placed on regulatory measures to ensure that development or economic imperatives are not able to override the need for biodiversity protection.	
Tikanga: Biodiversity and biological protection is equally as important as development and economics.	
Tikanga: Development needs to demonstrate an enhancement of biodiversity measures as an outcome from the activity.	
Biodiversity	
Iwi Sub Themes	
Ūkaipōtanga	Kaitiakitanga
The importance of tūrangawaewae, a place where one belongs, feels valued and is able to contribute	Caring for creation including natural resource, inherited treasures, other forms of wealth and community, including Māori as people.
Ngāti Toa	Ngāti Toa
Consider the effects of activities on indigenous biodiversity when assessing resource consent applications and ensure that adverse impacts are avoided. Tikanga: Adverse effects from activities must be avoided or remedied.	Ensuring that the benefits of growth and the use of physical resource do not come at the expense of biodiversity.

The above provision of Te Haerenga Whakamua are directly relevant to the plan change as they highlight the concerns of iwi with respect to how biodiversity is managed against competing matters including development. There is also a clear desire expressed in the Plan to see adverse effects on biodiversity avoided or mitigated.

Whakarongotai o te moana o te wai Kaitiakitanga Plan

This Plan identifies the key kaupapa, huanga and tikanga values, objectives and policies of Te Ātiawa ki Whakarongotai to guide kaitiakitanga. The document is internally focused, in order to support the kaitiaki practice of the iwi, but also to inform other agencies.

The following provisions of Whakarongotai o te moana o te wai are relevant to the plan change:

7.2 Mauri: Nga Huanga

The following are the key objectives of Te Ātiawa ki Whakarongotai that relate to mauri”

F. Biodiversity is strong in that the full suite of mahinga kai species can be found in our catchments.

7.3 Mauri: Nga Tikanga

The implementation of the following tikanga will support the achievement of nga huanga:

H. Prioritise the protection of species that are threatened.

These provisions demonstrate the importance of biodiversity to the identity of, and traditional customary uses of biodiversity by Te Ātiawa.

8 Any relevant plans or strategies

The following identifies other relevant plans and strategies.

Te tupu pai – Growing Well. Our Strategy for enabling sustainable growth in Kāpiti 2021

The Te tupu pai strategy outlines the community’s approach to accommodating growth over the next 30 years. Although not specifically relevant to the plan change, the strategy notes the existence of ecological sites are a constraint on future development, and they will be identified as a ‘qualifying matter’ constraint under the District Plan as it is amended to give effect to the intensification requirements of the NPS-UD and the Medium Density Residential Standards (MDRS) under the RMA.

The strategy also identifies the district’s natural assets as a matter to be kept, protected and enhanced. The overall approach to development includes fostering development in a way that protects and enhances natural habitats.

Climate Emergency Action Framework 2021

The framework is intended to be considered as part of all Council decision making. It has the following vision:

a thriving, vibrant and strong Kāpiti that has reduced its carbon footprint significantly, transitioned to a low-carbon future, and prepared for challenges and opportunities that come from responding to the climate crisis.

The following provisions are relevant to the plan change:

4. Principles

- 4.1 Council demonstrates strong and effective leadership on climate change mitigation and adaptation to support Toitū Kāpiti and give effect to the climate change emergency; this includes a commitment to act in the face of uncertainty using the best scientific information available.*
- 4.2 Council honours Te Tiriti o Waitangi and its partnership with mana whenua. Ngāti Raukawa ki te Tonga, Ātiawa ki Whakarongotai, and Ngāti Toa Rangatira will be involved as partners in Council’s climate change response and any projects that arise from this Framework to ensure a mana enhancing partnership is nurtured throughout.*
- 4.4 Decision making is inclusive, transparent, and based on ongoing collaboration and consultation with the wider community, businesses, social service organisations, and key sectors from industry and science.*
- 4.5 Decision making will acknowledge the depth of knowledge that Ngāti Raukawa ki te Tonga, Ātiawa ki Whakarongotai, and Ngāti Toa Rangatira hold in terms of climate change and the value of māramatanga (lessons learned through centuries of*

kaitiakitanga, manaakitanga, and whanaungatanga). Council will draw on this knowledge during the decision-making process to reflect the value of māramatanga and the expertise that mana whenua have in this area.

4.6 Decision making will consider:

4.6.1 *Best practice guidance and recommendations*

4.6.2 *Costs and benefits, including broader co-benefits to the four well-beings*

4.6.3 *Level of risk, particularly if an action is not taken*

4.6.4 *Urgency of any issues at hand*

4.6.5 *How effectively a proposed action will address any issues at hand*

4.6.6 *Avoiding any actions that might worsen inequity or compromise future generations*

4.6.7 *Promotion of actions that will allow mana whenua to act as kaitiaki, supporting them to create sustainable practices that they can implement within their rohe*

4.6.8 *Mana whenua advice, community feedback, and potential alignment with neighbouring councils*

4.6.9 *Long-term effectiveness of proposed actions, regardless of current or future trends or pressures*

Many of these matters, and particularly those listed within section 4.6 are relevant to the plan change and issues that must be evaluated within this section 32 evaluation. These relevant matters include the consideration of best practice, benefits and costs, levels of risk and uncertainty, the effectiveness of a proposed action, and the consideration of advice from mana whenua, community feedback, expert ecology advice, and the potential alignment with neighbouring councils.

Coastal Strategy 2006

The Coastal Strategy is a guiding document which aims to ensure the community's vision to restore and enhance the wild and natural feel of the coast is achieved. The focus of the strategy is on the coastal margin including foredunes, and addresses matters such as access, ecological restoration, and the impacts of development on the natural character of the coast. The document includes the identification of area-specific challenges and responses.

The strategy is of limited relevance to the plan change, but it notes:

- *The quality of indigenous ecosystems on the coast and retention of the wild natural feel of the coastal margin is at risk due to human actions on the coast.*

Open Spaces Strategy 2022

The Open Space Strategy aims to safeguard and guide the provision of open space in the District for the next 30 years to ensure the right types of open spaces are provided in the right places. It sets the direction for providing and managing the network until 2050, giving a framework for growth while remaining flexible to respond to challenges and opportunities that arise.

One of the ten priorities of the Strategy is:

Continuing protection, restoration, connection and enhancement of the natural environment, including the restoration of the ecology and biodiversity of the District and the remediation of contamination in open spaces.

Biodiversity is identified in the Strategy as an important component of open spaces. The Strategy identifies the improvement and preservation of biodiversity as part of the future view of open spaces in the district.

Long Term Plan 2021-41

The Long Term Plan identifies the following as part of the District Plan work programme:

District plan work programme committed to include review of coastal and development incentives provisions, plan changes on urban development, indigenous biodiversity, freshwater and highly productive land. Provide for 5-year efficiency and effectiveness review and full plan review after rolling review phase.

This plan change can be considered part of this work. It responds to issues identified during district plan effectiveness monitoring during implementation, primarily resource consenting involving the modification of protected indigenous vegetation. The District Plan work identified in the Long Term Plan regarding biodiversity largely relates to future work that will be necessary to implement an expected future National Policy Statement on Indigenous Biodiversity. However, this plan change also falls under this heading because it addresses an identified shortcoming in the existing indigenous vegetation protection rules, which risks the Council not meeting its statutory function of maintaining indigenous vegetation under Section 31 of the RMA.

This plan change is consistent with the Long Term Plan community outcome:

Our natural environment is restored and enhanced as we transition to a low-carbon future.

As the plan change also aims to ensure the ability of people to provide for their health and safety in response to threats posed by dangerous trees, the plan change is also consistent with the following LTP community outcome:

Our people have access to suitable housing in Kāpiti so that they can live and thrive.

This means: Kāpiti residents have access to suitable safe, healthy, warm shelter (including houses, apartments, units, townhouses and other domestic dwellings) to meet their needs, and enable them to live and thrive where they choose, how they choose.

Other relevant legislation or regulations

There is no other relevant legislation or regulations.

9 Evidence Base – Research, Consultation, Information and Analysis undertaken

District Plan Implementation Monitoring - Resource Consents

A resource consent application made under controlled activity rule ECO-R6, and the associated unanticipated outcomes and likely significant adverse effects on indigenous biodiversity was the catalyst for this plan change. Council records show the rule has been used twice, with a total of two resource consent applications lodged since the rule had legal effect. A summary of the resource consents, and the identified issues are provided below.

Details of a 45 lot residential subdivision on the same site as the application to remove 123 protected indigenous trees are also provided, as this application helps demonstrate the resource management issue and the potential misuse of rule ECO-R6.

The three relevant resource consents are:

Resource Consent Application	Issues identified
RM200102 Modify 123 trees within ecological site K189.	Tree viability The rule requires an arborist who has obtained the New Zealand Qualifications Authority (NZQA) National Certificate in Arboriculture Level 4 or equivalent qualification to certify that either the tree is no longer independently viable or presents a risk of serious harm to

<p>Activity Status: Controlled</p>	<p>people or property or risks damaging surrounding protected vegetation. According to the NZQA webpage⁸, Level 4 of this National Certificate does not appear to qualify an arborist to fully assess risk posed by trees. Level 4 qualifies an arborist to visually identify symptoms of trees that have the potential for mechanical failure, but this is to identify where further investigation is necessary. The 'further investigation' component to confirm any risk posed by trees is not taught until the New Zealand Diploma in Arboriculture (Level 6) qualification is obtained⁹.</p> <p>The independent ecology advice commissioned by the Council (Appendix 1) notes many of the trees were incorrectly determined to be not independently viable by both the arborist acting for the applicant, and the arborist commissioned by the Council to review the application. The independent arborist considers many of the trees were in fact in their healthy natural state for the species, including the visible imperfections to the trunk integrity, and would in fact likely not present a safety risk. The ecologist also notes the trees would likely be independently viable, and that no assessment was made by the arborists of the health of the canopy of the trees.</p> <p>Scale of tree modification (including removal) and assessment of effects</p> <p>The scale of trees removal under the controlled activity rule is unlimited. Any actual or potential adverse effects on the environment that may result from the removal of protected indigenous trees, including significant adverse effects, are not a relevant matter under the rule. Because ecological effects are not relevant under the rule, an assessment of the effects cannot be required by the Council.</p> <p>Lack of ability for Council to notify or refuse the consent</p> <p>Despite the ability for actual and potential effects on the environment under the rule being significant, there is no ability for the Council to refuse consent for a controlled activity. Although the Council could use special circumstances to notify an application, the ecological effects are not a relevant matter under the rule, so an applicant would need to agree to the commissioning of an ecology report to determine the level of adverse effects for this purpose. This situation highlights the inappropriateness of the rule in its current form in terms of the requirements of sections 6 and 31 of the RMA.</p>
<p>RM200156 To undertake the removal of a key indigenous tree (Titoki) listed in Schedule 3.2A.</p>	<p>There are no issues associated with this resource consent. The rule was used appropriately to remove a single protected indigenous tree that was confirmed as presenting a risk.</p>
<p>RM200227 Undertake a 45 lot residential</p>	<p>Summary of issues</p> <p>The date on the subdivision scheme plan for the same property shows it was prepared while the above controlled activity consent for</p>

⁸ <https://www.nzqa.govt.nz/nqfdocs/units/pdf/31189.pdf>

⁹ NZ Diploma in Arboriculture (Level 6):

<https://www.nzqa.govt.nz/nzqf/search/displayQualificationOverViewWidgetJS.do?&selectedItemKey=2669>

subdivision, construction of a new road, four local purpose reserves, undertake earthworks that do not meet the permitted activity standards and modification of vegetation within ecological site K189.

Activity status:
Restricted
Discretionary

the removal of the 123 protected indigenous trees was being processed by the Council.

A plan from the controlled activity resource consent to remove the trees is provided in Figure 1 below. Figure 2 shows the layout of the subdivision under RM200227. The subdivision scheme plan shows a right of way running through the ecological site, effectively widening an existing farm track through the site. A comparison of the plans shown in Figures 1 and 2 appear to show the proposed right of way following a very similar path to a row of approximately 30 protected trees that are to be removed.

It could be reasoned from this the controlled activity rule has been used to remove trees that were located along the proposed route of the right of way for the subdivision, without the need for what would typically require a restricted discretionary activity resource consent and the consideration of any actual or potential adverse effects on indigenous biodiversity. If this was the intention, it demonstrates how the existing wording of rule ECO-R6 is able to be misused in a way that could result in significant adverse effects on indigenous biodiversity. If this was a coincidence rather than a deliberate approach to provide a smoother consent path for the removal of protected trees, it demonstrates how the rule could potentially be deliberately misused in this way in the future.

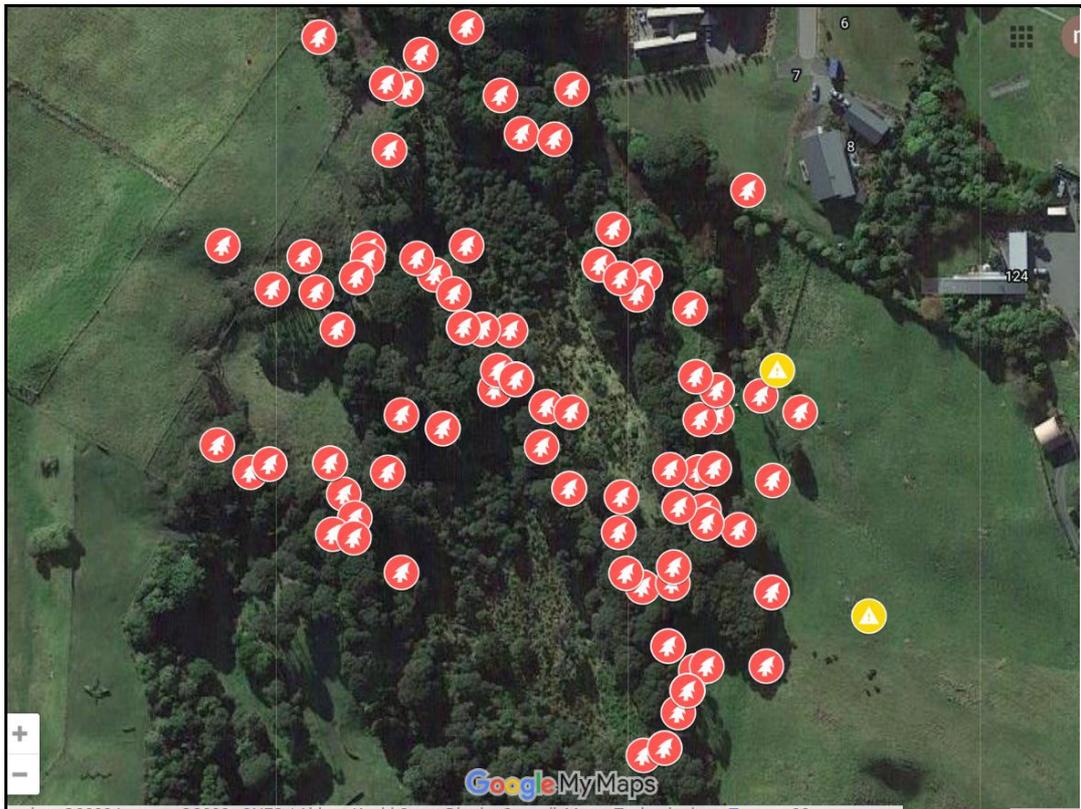


Figure 1: Location of trees within ecological site K189 to be removed under RM200102

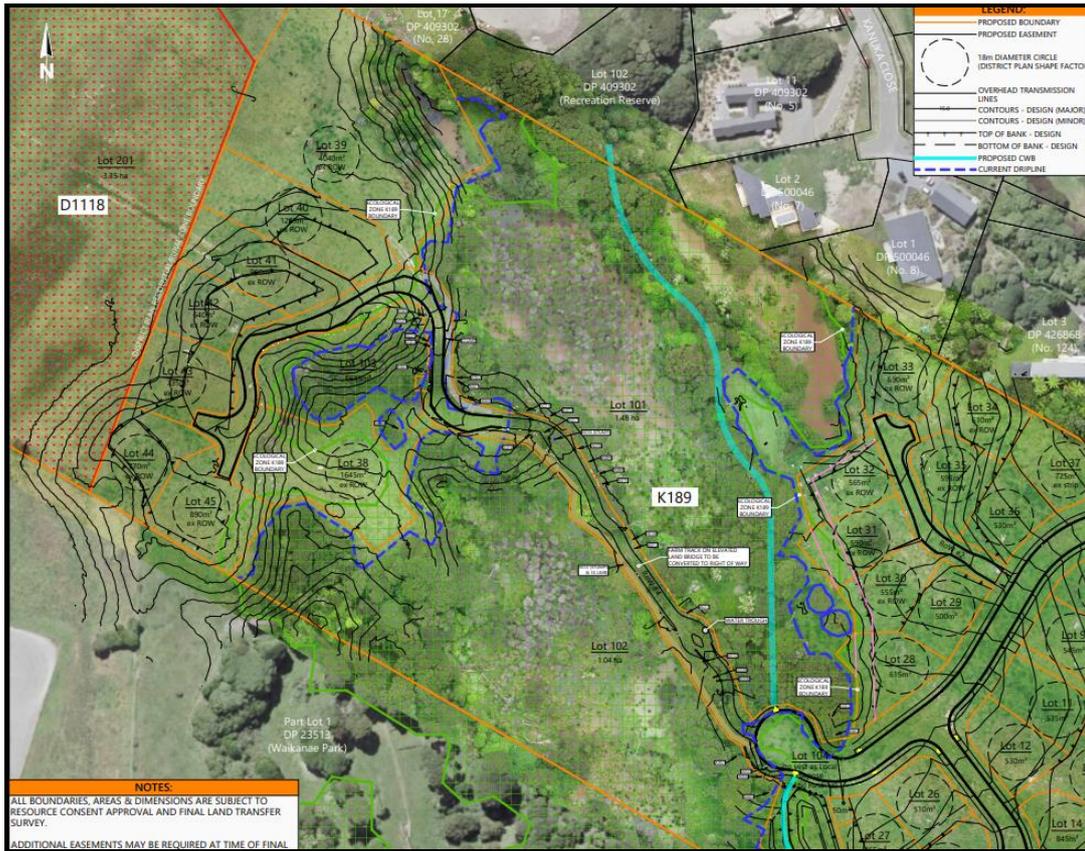


Figure 2: Subdivision scheme plan from RM200227. Note route of right of way in relation to the location of approximately 30 protected trees to be removed under RM200102 shown in **Figure 1** above.

Independent Ecological Assessment and Advice

In response to the issues identified by the processing of the resource consent listed above, the Council commissioned independent ecological advice that:

- Provides an ecological assessment of the likely adverse effects on indigenous biodiversity that would result from the implementation of the case study resource consent;
- Highlights evidential issues and shortcomings that resulted from relying on arboriculture advice during processing of the case study resource consent;
- Identifies an error in ECO-Table 1 regarding the dimensions of two species of Kānuka;
- Provides recommendations on correcting the error in ECO-Table 1; and
- Provides high-level recommendations on potential approaches to amending ECO-R6 to address the identified issues.

Consultation was initially carried out with Council staff from the Open Spaces and Parks team, and the Resource Consents and Compliance teams. This consultation included sharing the draft ecology advice and potential draft amendments to ECO-R6 and ECO-Table 1 to address the identified issues. This consultation led to amendments to the draft amendments to ECO-R6 before consultation with other parties was carried out on draft provisions.

10 Engagement and Feedback

10.1 Iwi Engagement

The Council sought feedback from all three iwi who hold mana whenua within the District on 20 April 2022. Iwi were provided with a complete copy of draft provisions. The Council received the following feedback:

Name	Summary of feedback	Response to feedback
Te Atiawa ki Whakarongotai	<p>Ātiawa supports the intent of the Plan Change, to give effect to section 6(c) of the Resource Management Act, by protecting significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance.</p> <p>Ātiawa also support the proposed amendments to:</p> <ul style="list-style-type: none"> • Refer to the modification of indigenous <i>trees</i>, thereby excluding other indigenous vegetation from the controlled activity status for modification. • Limit the number of trees that can be removed, in a 5yr period as a controlled activity, to 2 trees. • Include the <i>necessity</i> of the proposed modification of indigenous trees to address the imminent and demonstrated risk, as a Matter of Control • Increase the threshold for the removal of trees from 'no longer independently viable' to 'presents a demonstratable imminent risk of serious harm to people or property or significantly damaging surrounding protected vegetation" • Differentiate between Rawiritoa, kānuka and Rawirinui, kānuka that are currently listed as one species – Kānuka. 	Support for the amendments is noted.

Ngā Hapū o Ōtaki	No response.	N/A
Ngati Toa Rangatira	No response.	N/A

Response to feedback from Iwi

Support from Te Atiawa ki Whakarongotai Inc for the plan change is acknowledged. Amendments have been made to the rule in response to feedback from other parties on draft provisions. The purpose of these amendments is to improve functionality and to avoid unintended consequences. However, the overall intent and requirements of the rule as commented on by Iwi remains largely unchanged.

With respect to the lack of official responses from Ngā Hapū o Ōtaki and Ngati Toa Rangatira, both iwi have been briefed by the Council's District Planning team on this plan change prior to the official consultation occurring pursuant to RMA Schedule 1 clauses 3 and 4A.

10.2 Statutory Parties

The Council provided copies of draft provisions to the following statutory parties on 20 April 2022. Any feedback received is also summarised in the table below:

Name	Summary of feedback	Response
Iwi authorities	As above.	As above.
Ministry for the Environment	No response.	N/A
Minister for the Environment David Parker	No response.	N/A
Wellington Regional Council	<p>Suggestions and questions:</p> <ol style="list-style-type: none"> 1. Would you now need a definition for 'indigenous tree' in the plan to note that this means 'any tree that is native to the Kāpiti Coast District' or similar? 2. Are there any perverse outcomes to removing non-woody vegetation from the controlled activity status? Effectively means it is harder to modify non-woody vegetation as it jumps straight to restricted discretionary status (though I understand why given it is mainly about the hazard of falling trees and branches). Are there circumstances where you might, for example, want to clear diseased non-woody species to protect adjacent 	<p>Responses to the points raised are:</p> <ol style="list-style-type: none"> 1. Amendment made to draft provisions to retain reference to <i>indigenous vegetation</i>, but retaining the new reference to <i>trees</i>. Both these terms are defined by the plan, therefore eliminating any potential need for a new defined term. 2. Non-woody vegetation can still be <i>trimmed</i> as a permitted activity under rule ECO-R3 for the same purposes originally authorised by controlled activity rule ECO-R6. However, <i>modification</i> that falls beyond the limits of permitted activity rule ECO-R3 would require resource consent as a restricted discretionary activity. <p>Amendment made to rule wording to make the tree number and time period a standard under the rule. This means clause b) that refers</p>

	<p>healthy vegetation? Would the change to standard 1(b) mean that the modification of non-woody indigenous vegetation that was not planted for restoration or offsetting purposes would be a restricted discretionary activity?</p> <p>3. ECO-R6(b) excludes trees planted by humans. Does that in any way conflict with standard 1(b) which seeks to protect trees planted by humans for restoration and offsetting?</p> <p>4. Matter of control 2, I would suggest changing the wording from 'compensate for' to 'redress'. This is because 'compensate' could be confused with 'biodiversity compensation' which is not provided for under this plan as the effects management hierarchy stops at 'offset'. Interested in your thoughts here?</p> <p>5. Matter of control 7 talks about providing positive ecological effects. I associate providing positive effects entirely with the use of offsetting and compensation (as opposed to redressing adverse effects which is what remedy and mitigate steps do). The advice from Astrid was concerned with acknowledging the positive contributions of the modified vegetation (e.g., nutrients release if left to rot on site rather than being removed from site). Does this wording need to be modified to ensure there is no confusion between the contribution of the modified (or pre-modified?) trees to the ecological values of the site</p>	<p>to restoration or offsetting planting retains its current meaning.</p> <p>3. Rule ECO-R6 excludes key indigenous trees planted by humans where the tree is a key indigenous tree listed in ECO-Table 1. It also excludes planted vegetation not within an urban environment where located in or within 20 metres of a waterbody or the coastal marine area. This is to avoid providing a disincentive for people to plant indigenous vegetation.</p> <p>An amendment to the exclusion under clause b) (to be reassigned as c)) has been made to make it clear the provision is referring to planted vegetation that was legally required be planted as ecological restoration, enhancement, or as a biodiversity offset.</p> <p>4. Matter of Control 2 wording amended to refer to 'remedy' rather than 'compensate'. This amendment aligns with the direction of policy ECO-P2 – Management Approach to Biodiversity Protection.</p> <p>5. Matter of control 7 is amended to refer to positive ecological contributions of the modified trees on the application property.</p>
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	versus the positive ecological effects of any suggested offset measures?	
Porirua City Council	No response.	N/A
Wellington City Council	No response.	N/A
Upper Hutt City Council	No response.	N/A
Hutt City Council	No response.	N/A
Masterton District Council	No response.	N/A
South Wairarapa District Council	No response.	N/A
Horowhenua District Council	No response.	N/A

10.3 District Plan Users – Local Consultants

The Council sent a copy of the draft plan change directly to local planning consultants to seek their feedback on 20 April 2022. Their feedback is shown in the table below:

Name	Summary of feedback	Response to feedback
Leith Consulting Ltd	No response.	N/A
Land Matters Ltd	No response.	N/A
Landlink Ltd	No response.	N/A
Cuttriss Consultants Ltd	Oppose the draft amendments on the grounds it does not exclude indigenous trees on urban environment allotments as required by RMA s.76(4A).	Clarification added to clauses of rule ECO-R6 that exclude indigenous trees on urban environment allotments that are not listed in Schedule 2.

10.4 Community and Other Stakeholders / Interest Groups

The Council initiated public consultation on draft provisions on the Council's website on 20 April 2022.

The following feedback was received:

Name	Summary of feedback	Response to feedback
Royal Forest and Bird Protection Society of New Zealand Inc.	1. Forest & Bird's preference to see Rule ECO-R6 changed to Restricted Discretionary instead. Controlled activity status, no matter how tightly controlled, will ultimately lead	1. The amendments to the rule seek to balance the requirements of the following plan provisions: DO-O2 – Ecology and Biodiversity

	<p>to incremental loss of habitat over time to due to Council having no ability to retain discretion to decline consent.</p> <ol style="list-style-type: none"> 2. Suggest that retaining ECO-R6 as a controlled activity rule would not be giving effect to s6(c) of the RMA requirement that Council protects significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance. The sheer fact that a tree might be a threatened species is enough to warrant discretion if consent is applied for to cut it down. 3. Threatened and rare species should be protected, and all of the areas listed in the rule (a – e) are sensitive and have high ecological values so any use or loss should not be as of right, for any purpose. 4. As currently drafted, Forest & Bird is concerned that the rule enables the felling of two trees every five years, enabling the incremental loss of habitat over time. While this might sound small scale, the removal of two trees, particularly in the coastal environment, could have significant impacts. 5. If the rule is to remain a controlled activity, the matters of control need to be expanded to include issues like bird breeding season, surveillance for bat roosts, presence of endangered fauna such as <i>Powelliphanta spp.</i> and the intrinsic value of the tree if it's part of a bigger piece of forest. 6. Standards under 1 b. need to be improved and expanded. Planted trees, particularly old 	<p><i>ECO-P2: Management Approach to Biodiversity Protection:</i></p> <p><i>avoiding where practicable the modification of significant indigenous vegetation, in particular all indigenous vegetation within ecological sites.</i></p> <p>And</p> <p><i>DO-08 – Strong Communities</i></p> <p><i>To support a cohesive and inclusive community where people:</i></p> <ol style="list-style-type: none"> 4 <i>have a strong sense of safety and security in public and private spaces.</i> <p>It is noted all the provisions identified above assist the council in achieving the purpose of the RMA by managing the protection of natural and physical resource in a way which enables people to provide for their social wellbeing and for their health and safety.</p> <p>The amendments to the rule seek to significantly reduce the identified issues with the extent of adverse effects on indigenous biodiversity possible under the existing wording of the rule, while still enabling people to provide for their health and safety where this can be clearly demonstrated and agreed to by the Council. In these limited circumstances it is considered unlikely a restricted discretionary rule would achieve a different environmental outcome than the controlled activity rule.</p> <ol style="list-style-type: none"> 2. With regard to threatened species, it is noted none of the species listed as a rare and threatened vegetation species in Schedule 3 of the District Plan are tree species. 3. It is unclear what different environmental outcomes would result from restricted discretionary status where:
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	<p>ones, can have important biodiversity values and contribute to a mosaic of habitat, particularly in urban areas. For example, trees over a certain DBH could require an assessment by Council officers before being granted or declined consent.</p>	<ul style="list-style-type: none"> a. A protected indigenous tree is proven to present a demonstratable imminent risk to people and property; and b. It has been determined the risk cannot be addressed via trimming as a permitted activity under rule ECO-R3; and c. The Council agrees the removal of the tree is necessary to address an imminent risk to people and property. <p>To further clarify the limitations of the rule, and in response to this feedback from Forest and Bird, an additional standard has been included to require applications to demonstrate the imminent risk to people and buildings cannot be removed via permitted activity trimming under rule ECO-R3. An arborist is already required to confirm the imminent safety risk, so this additional standard will not place an additional cost burden on applicants</p> <ul style="list-style-type: none"> 4. As discussed above, the circumstances under which the removal of a tree under the rule are constrained to where a demonstrable imminent risk to people and buildings can be demonstrated. An additional standard has been added requiring applications to demonstrate the risk cannot be addressed via permitted activity trimming. Activity status, and the consideration of ecological effects is unlikely to have an effect on the environmental outcomes when addressing significant imminent risk to people and property.
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<p>Hendrika Catsburg</p>	<ol style="list-style-type: none"> 1. The Council has promised via the 'Climate Change Strategy' to firmly embed climate change considerations in all Council does. 2. How does removing the word 'vegetation' and replacing it with 'max of two trees' save our native habitat when we have a diverse range of habitats from wetlands, dunes, scrub, shrubs, herb fields, forests (with trees) etc. All vegetation types are under threat. 3. How will the new wording protect trees in the long term when the wording is for 'a five year limit per allotment'. 4. How will this wording protect trees and the diverse range of habitats when removed trees can be replaced with vegetation and yet vegetation has no protection? Replacement needs to be like for like. 5. I disagree with this new wording as I can't see how it gives existing vegetation and 	<ol style="list-style-type: none"> 1. The Kāpiti Coast District Council has not published a Climate Change Strategy. The Council has published a Climate Emergency Action Framework, however no references or quotes corresponding to those raised in the feedback could be identified in the Framework. 2. Focusing the rule on trees rather than vegetation means the rule only provides for the modification of trees. All other vegetation is managed by other existing indigenous vegetation rules in the District Plan. 3. The proposed amendments to the rule seek to significantly reduce the number of protected indigenous trees that can be modified compared to the status quo. This seeks to provide a balance between maintaining indigenous biodiversity while enabling people to provide for their health and safety. 4. In some instances, when a dangerous tree has been removed it might be inappropriate to replace like for like due to proximity to buildings and the likelihood of

	<p>diverse habitats any protection. It allows development to degrade, destroy, and remove vegetation immediately and trees in 5 years time? How is this going to mitigate climate change and make life worth living especially for our future generations?</p> <p>6. Would like to see the rule go back to the original wording because vegetation includes trees. If you feel it does not properly protect trees then add the words 'all forms of vegetation' and put in a footnote of all the vegetation habitats in Kāpiti.</p>	<p>replacement trees presenting health and safety risks in the future.</p> <p>5. The rule, as reworded, only provides for the modification of up to two dangerous trees every five years as a controlled activity. Demonstrating an imminent and significant health and safety risk is a standard that must be demonstrated. If this cannot be done, resource consent would be required as a restricted discretionary activity under rule ECO-R7.</p> <p>6. The existing wording of the rule enables the modification of all indigenous vegetation (grasses, shrubs, ferns mosses etc.). This includes trees. The proposed amendments to the rule will limit this modification to only two dangerous trees in a five year period. All other indigenous vegetation types are proposed to be removed and managed under the other trimming and modification rules, thereby providing greater protection for these vegetation types than that offered under the existing rule.</p>
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10.5 Summary of feedback and any resulting amendments to the provisions

As can be seen in the consultation summary tables above, consultation on the draft provisions resulted in useful feedback that resulted in a number of recommended amendments.. Those amendments include:

- (i) Moving the limitation on the number of trees and time period from the rule to a standard. This addresses an unintended consequence that would have meant standard (c) would not be applicable under the wording of the rule with respect to indigenous vegetation.
- (ii) Amending standard (1)(c) to clarify the standard only refers to planted indigenous vegetation that was legally required to be planted for restoration, enhancement or biodiversity offsetting. Left unaddressed, the standard may disincentivise people from planting indigenous vegetation.
- (iii) Amending matter of control 2 to refer to *remedying* the loss of indigenous trees, rather than *compensating*. This change aligns with the wording of Policy ECO-P2, and avoids confusion as the District Plan does not specifically enable ecological compensation.
- (iv) Adding exclusions to clauses (a) and (b) within the rule to clarify the rule does not apply to indigenous *trees* on *urban environment allotments* unless they are specifically identified in Schedule 2. This change ensures there is no confusion regarding the rule meeting the requirements of section 76(4A) and (4B) of the RMA.

- (v) Adding an additional standard to require resource consent applications under the rule to demonstrate the imminent risk to people and buildings posed by protected indigenous trees cannot be addressed via permitted activity *trimming* under rule ECO-R3.

As discussed in the consultation summary tables above, some of the feedback and suggested amendments did not result in amendments to the provisions, as they were found to be less effective at meeting the objectives of the plan, statutory planning documents, and the purpose of the RMA with respect to enabling people to provide for their health and safety.

11 Analysis of other District Plan provisions for this topic

The following is an analysis of how other district plans address the matter of the modification of indigenous vegetation, and allowances for modification. Due to the RPS direction to identify and protect significant indigenous vegetation and significant habitats of indigenous fauna, Councils in the Wellington Region that have recent district plan or proposed district plan provisions on this topic are considered most relevant. However, due to many Councils in the region being still in the process of developing plan changes to address indigenous biodiversity, other recent district plans and proposed district plans from around the country have also been analysed.

District Plan	Summary of approach	Comments
Porirua City Proposed District Plan 2020	<p>Proposed ECO-R1 would enable as a permitted activity the removal of vegetation within a Significant Natural Area where the purpose is <i>to address an imminent threat to people or property, represented by deadwood, diseased or dying vegetation</i> and the following are complied with:</p> <ol style="list-style-type: none"> <i>The works are essential due to the imminent threat to the safety of people or property and Council is advised of this threat as soon as practicable;</i> <i>All trimming or pruning must be undertaken to a growth point or branch union and in accordance with the New Zealand Arboricultural Association Incorporated Best Practice Guideline 'Amenity Tree Pruning' Version 3 dated April 2011 to avoid irreversible damage to the health of the tree;</i> <i>Any removal is undertaken or supervised by a suitably qualified arboricultural expert.</i> <i>Porirua City Council is provided with written documentation by a works arborist confirming that the works were undertaken in accordance with good arboricultural practice no later than 10 working days after the works have been completed, including</i> 	<p>Permitted activity status for these types of works is untested in Porirua. Prior to the notification of the Proposed District Plan in August 2020, Porirua's district plan had no indigenous vegetation protection rules in urban areas.</p> <p>In terms of the removal of trees within a Significant Natural Area (SNA), the proposed rule focuses on imminent threat to the safety of people or property. There is no 'viability' component to the rule. In this regard, apart from activity status, proposed plan change 1F also proposes to focus the rule on the imminent threat to the safety of people or property.</p> <p>Similar to the Kāpiti Coast District Plan, the Porirua Proposed District Plan rule seeks to ensure the person carrying out tree removal is appropriately qualified.</p> <p>It is too early to draw any conclusions on the effectiveness of the Porirua City PDP rule; however it appears to suffer from the same potential avenue for misuse as ECO-R6, only as a permitted activity rather than a controlled activity. It is noted the number of protected trees that can be removed from a property under Porirua's PDP is unlimited, with a requirement to inform the</p>

	<p><i>why any vegetation was an immediate threat to the safety of people or property.</i></p> <p>The Section 42A report writer has recommended amendments to the hearings panel that would add trimming and pruning to the rule. Amendments are also recommended to standard ECO-S1 to:</p> <ul style="list-style-type: none"> a) clarify the type or arborist that can supervise or carry out the works; and b) Require written confirmation from an arborist to be provided to the Council confirming the works were undertaken in accordance with good arboricultural practice no later than 10 working days after the works have been completed, including why any vegetation was an immediate threat to the safety of people or property. 	<p>Council within 40 days after the works have been completed that the tree removal was necessary. This approach appears to be open to misuse on a scale greater than the status quo approach of rule ECO-R6 under the Kapiti Coast District Plan. The Kapiti Coast District Plan rule at least requires the trees to be clearly identified and assessed as part of a controlled activity resource consent. No tree removal is authorised before the resource consent is granted.</p>
<p>New Plymouth District Council Proposed District Plan 2019</p>	<p>Permits vegetation removal within SNAs where the vegetation endangers human life or existing buildings or structures.</p> <p>Non-complying activity where permitted standards are not met.</p>	<p>One of the proposed permitted standards of rule ECO-R1 allows for removal of vegetation within an SNA where it endangers human life of existing buildings. This standard has no other requirements such as an arborist report or notification to the Council prior to the removal. The draft rule appears to be open to misuse similar to the Porirua PDP, only with fewer restrictions.</p> <p>Drafting of permitted standards all contain and/or after them in the list, so it is unclear whether all the standards must be read as one and complied with for an activity to be permitted or whether each standard stands on its own depending on the circumstances.</p> <p>The PDP was notified for further submissions in May 2022. There are many submissions on this topic. It is therefore too early to determine what the final form of provisions will be.</p>
<p>Dunedin City Council Proposed</p>	<p>Rule framework that permits “small scale” vegetation clearance for specific activities and identifies all other vegetation clearance within an</p>	<p>The PDP is still under appeal. There are no permitted or controlled activity provisions that manage the removal</p>

<p>District Plan 2015</p>	<p>Area of Significant Biodiversity Value (ASBV) as a restricted discretionary activity.</p> <p>Vegetation clearance is not permitted where it involves any of the following:</p> <ul style="list-style-type: none"> (i) any of the threatened plant species listed in Appendix 10A.1; (ii) any mature examples (greater than 15 years old) of the important indigenous tree species listed in (iii) Appendix 10A.3; or (iv) any threatened indigenous fauna species listed in Appendix 10A.2. 	<p>of significant indigenous vegetation for safety purposes.</p> <p>The removal of vegetation that is threatened, or a specific species that is greater than 15 years old are not permitted.</p>
<p>Christchurch City Council District Plan 2019</p>	<p>Rule framework that permits some minor vegetation trimming but generally identifies most vegetation removal within identified SNAs as a restricted discretionary activity.</p>	<p>Permitted activity rules for indigenous vegetation removal does not cover risk, safety, disease or damage etc.</p> <p>There are no controlled activities listed for the removal of indigenous vegetation.</p> <p>Vegetation removal for the purposes covered by rule ECO-R6 would be a restricted discretionary activity under the Christchurch City District Plan.</p>
<p>Queenstown Lakes District Council Proposed District Plan 2015</p>	<p>Rule framework that permits some minor vegetation clearance within SNAs.</p> <p>Breaching permitted standards results in a discretionary activity status.</p>	<p>The 'Stage 1' component of the PDP was notified in 2015. This included the provisions that address indigenous biodiversity.</p> <p>The PDP is still under appeal; however the appeals do not appear to seek additional permitted activity standards or controlled activity rules that would provide for the removal of significant indigenous biodiversity for the same purposes as those provided for by rule ECO-R6.</p> <p>The permitted Queenstown Lakes PDP provisions for clearance of significant indigenous vegetation are not comparable to the Kapiti Coast District Plan.</p>
<p>Rotorua District Council</p>	<p>Indigenous vegetation disturbance in a SNA is a permitted activity for a variety of purposes under ECO-R4, including:</p>	<p>The permitted status does not place a limit on the number of trees that may be removed, or require any expert input into determining risk.</p>

District Plan 2016	<ul style="list-style-type: none"> removal of trees that endanger human life, structures or utilities or obstruct existing access to utilities. <p>If permitted standards are not met the vegetation disturbance is a discretionary activity.</p>	The Rotorua District Plan approach appears to be open to misuse, only the misuse could be more extensive than that able to be carried out under the Kapiti Coast District Plan rule ECO-R6.
Taupo District Council District Plan 2007	<p>Rule 4e.6.1 provides for indigenous vegetation clearance within a SNA for a number of purposes including the removal of trees that endanger human life, structures or utilities or obstruct existing access to utilities. The vegetation and trees to be removed must be mapped and provided to the Council prior to clearance.</p> <p>Vegetation clearance that is not a permitted activity is a restricted discretionary activity. There are no controlled activity rules for vegetation clearance.</p>	<p>The removal of trees from within a SNA for the purpose of addressing risk to human life, buildings and utilities is a permitted activity, but is subject to a requirement for the trees to be mapped and provided to the Council prior to the removal. With no limit on the number of trees that can be removed and no confirmation of the risk by Council, this rule appears to be open to misuse at large scale.</p> <p>There are no controlled activity rules for clearance, with restricted discretionary being the next rule category where permitted standards are not met.</p>

11.1 Summary of District Plan and Proposed District Plan Provisions

Of the district plans identified that provide for the removal of significant indigenous vegetation within identified significant natural areas as a permitted activity, it is noted those rules would be very difficult to enforce or confirm the vegetation was necessary and in accordance with permitted activity standards. This is because these plan provisions do not place any limits on the number of trees that can be removed, nor do they require the Council to confirm the works are necessary to address safety risk prior to the trees being removed.

Many of the district plans above enable the identification of safety risk posed by trees to be determined by a lay person. This approach places significant trust on landowners and developers. In the event of a complaint being received by Council for protected indigenous tree removal, the approach of many of the above district plans would make it very difficult for compliance officers to confirm whether permitted activity standards were met. In the case of the Porirua PDP, this could be up to 40 days after the works have been carried out. This raises significant questions and concerns regarding the effectiveness of the permitted activity rules and standards approach taken by some of the district plans identified above.

The Kapiti Coast District Plan ECO-R6 attempts to address the effectiveness issues that would result from permitted activity status by requiring a controlled activity rule and arboricultural advice confirming the works are necessary, or that the vegetation is no longer independently viable. A controlled activity resource consent must be granted prior to any works to the protected vegetation being carried out. The case study resource consent and the likely resulting significant adverse effects identified by the independent ecologist demonstrate the current rule is not fit for purpose. Therefore, the rule requires amendment to ensure the Council is meeting its RMA s.6(c) and s.31(1)(b)(iii) functions and obligations.

The analysis of the district plans and proposed district plans of other councils above demonstrates an amended controlled activity rule ECO-R6 would overcome the compliance issues other district plans may face with permitted activity status for indigenous vegetation removal, while still providing for a simpler and more affordable consent path for property owners

who genuinely need to address safety concerns posed by protected indigenous trees. The resource consent example of the potential misuse of the controlled activity rule and the resulting significant adverse effects on indigenous biodiversity would be prevented from occurring in the future. Importantly, the Kapiti Coast District Plan still enables the trimming of protected indigenous vegetation as permitted activity for the same reasons as those provided for under ECO-R6, meaning safety and disease risks can still be addressed as a permitted activity as long as the indigenous vegetation is not modified beyond the definition for *trimming*.

It is noted the resource consent that identified the need for this plan change was prepared and submitted to the Council by a resource management consultant on behalf of a developer. Therefore, should a similar opportunity arise in the future it is possible the same approach could be taken to gain approval for large-scale removal of protected indigenous vegetation without an appropriate assessment of environmental effects. For these reasons, none of the approaches taken in the other district plans reviewed above appear to be appropriate to manage the modification (including removal) of protected indigenous vegetation in the Kāpiti Coast District. It is possible none of the other Councils identified above have experienced the misuse of the District Plan and Proposed District Plan indigenous vegetation protection rules, and on this basis they remain comfortable with permitted activity status for modification and removal.

It is also noted that the Dunedin City Proposed District Plan and Christchurch City District Plan are both more restrictive for indigenous vegetation modification than the other councils analysed, and also more restrictive than the Kapiti Coast District Plan. This demonstrates there is no nationally consistent approach to this issue, and each Council therefore produces district plan provisions that it considers best manage the issue in response to local circumstances.

12 Scale and Significance Evaluation

Under section 32(1)(c) of the RMA, this evaluation report needs to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

The following assessment considers the proposed changes to rule ECO-R6 and ECO-Table 1 in relation to eight factors and scores each factor out of 5 in terms of its scale and significance (where 1 is low and 5 is high).

There is a degree of subjectivity about this evaluation, and its primary purpose is to broadly determine the level of analysis required for this topic. It is not intended to be an economic cost-benefit analysis although it will help determine if one is required. The assessment concludes with a summary table that provides a final overall score for the scale and significance of the proposed provisions, and therefore the level of analysis required.

Factor 1: Reason for the Change

The Council is responding to unanticipated outcomes resulting from the implementation of rule ECO-R6. The extent and level of adverse effects on indigenous biodiversity values possible under the controlled activity rule are at odds with the controlled activity status and the policies of the District Plan. The independent ecology advice of the case study resource consent identifies likely significant adverse effects on indigenous biodiversity values resulting from the controlled activity resource consent issued by the Council.

The assessment of the actual and potential effects on biodiversity values is not a relevant matter under the existing rule, despite strong District Plan policy direction requiring indigenous biodiversity values are maintained.

The amendments to the rule ECO-R6 and ECO-Table 1 are necessary to ensure the Council is meeting its statutory obligations under RMA s.6(c) and s.31(1)(b)(iii).

Factor 1 score is moderate/high (4)

Factor 2: Resource Management Issues / Problem Definition

The importance of halting the decline in biodiversity is recognised within the statutory direction of the RMA. The Part 2 purpose of the RMA specifically identifies the protection of “significant indigenous vegetation and significant habitats of indigenous fauna” as a matter of national importance (section 6(c)).

Section 7 of the RMA also requires particular regard to the intrinsic values of ecosystems when making decisions on managing the use, development and protection of natural and physical resources. The RPS 2013 requires significant natural areas to be identified and policies and rules to protect remaining indigenous biodiversity.

The indigenous biodiversity outcomes possible under ECO-R6 have been shown to be inconsistent with the legislative and policy requirements. This places the Council at risk of not meeting its RMA section 31 obligations to maintain indigenous biodiversity.

Factor 2 score is moderate/high (4)

Factor 3: Degree of Shift from the Status Quo

The proposed amendments to rule ECO-Table 1 aim to ensure the intent of the rule is retained, while limiting the potential adverse effects on indigenous biodiversity to the degree where the Council is meeting its statutory obligations.

It is considered for the majority of persons who wish to remove a dangerous protected indigenous tree, the proposed changes will have limited effect. The trimming of protected indigenous vegetation to address safety risk or to remove chronically diseased vegetation remains a permitted activity under rule ECO-R3. However, should a person wish to use the rule in a similar way to the resource consent example to remove many protected trees to seemingly facilitate the future subdivision and development of a site, the proposed amendments will mean a restricted discretionary activity resource consent would be required. This will ensure the actual and potential adverse effects on indigenous biodiversity are appropriately identified, considered and addressed as intended by the District Plan policies.

The proposed amendments to the rule seek to change the standards of the rule from indigenous vegetation to indigenous trees, and to shift the focus on risk to people and buildings. This means the proposed removal of protected indigenous vegetation that are not trees will require a restricted discretionary activity resource consent, however trimming for the same purposes is still a permitted activity under rule ECO-R3.

The proposed amendment to ECO-Table 1 corrects an error and will ensure the smaller coastal species of Kānuka will be protected under the general indigenous vegetation protection rules and standards.

Factor 3 score is low (2)

Factor 4: Who and How Many Will be Affected/Geographical Scale of Effects

Protected indigenous vegetation under the District Plan can be found in most zones across the District. The geographical scale of effects of the proposed change to the rule will only affect proposed modification of indigenous vegetation for the purposes specified under rule ECO-R6, but it will include the following:

1. All indigenous vegetation within the 171¹⁰ ecological sites listed in Schedule 1 to the District Plan.
2. The 18 species of rare and threatened vegetation listed in Schedule 3 of the District Plan.

¹⁰ Note the ecological site identification numbers in Schedule 1 do not align with the actual number of ecological sites listed.

3. All key indigenous tree species not within an urban environment allotment that meet the size thresholds identified in Schedule 2 of the District Plan.
4. All key indigenous trees listed in ECO-Table 1 that exceed either of the maximum size criteria diameter or *height*.
5. All indigenous vegetation that is in or within 20 metres of a waterbody or the coastal marine area where it is not within the urban environment.

Rule ECO-R6 has had legal effect since the Council notified its Proposed District Plan in November 2012. Despite the rule being in place for approximately 10 years, Council records show the Council has only received two resource consent applications under the rule. This demonstrates that proposed changes to the rule will not impact a great number of persons, as the rule is rarely used. This may be due to the majority of persons concerned about the safety or health of protected indigenous vegetation are able to address their concerns via permitted activity trimming under rule ECO-R3.

Importantly, the plan change will ensure the extent of potential adverse effects on indigenous biodiversity that the community expects the District Plan to manage as a restricted discretionary activity will occur.

The management of significant indigenous biodiversity is also managed under other rules, including permitted activity and restricted discretionary rules. These rules are used more regularly than ECO-R6 and are to remain unchanged under the plan change.

Factor 4 score is low (1)

Factor 5: Degree of Impact on or Interests from Iwi/Māori

The values of Iwi/Māori are explicitly required in the assessment of ecological sites in accordance with Policy 23(e) of the RPS. The policy criteria states indigenous ecosystems and habitats will be considered significant if the tangata whenua values identify them as containing characteristics of special spiritual, historical or cultural significance to tangata whenua, identified in accordance with tikanga Māori.

This plan change does not address the identification or assessment of the values present within ecological sites, as this task was carried out prior to the notification of the PDP in 2012. Notwithstanding this, the interests of Iwi as expressed within documents recognised by Iwi authorities with respect to this plan change have been assessed above. In addition, Iwi have been directly engaged and consulted on the draft plan change.

Feedback from Iwi was supportive of the intent of the plan change and the draft provisions.

The plan change seeks to better protect indigenous biodiversity in response to unintended consequences identified during the implementation of the rule through a resource consent. On this basis, the plan change is considered consistent with the interests of Iwi as expressed in the Iwi management plans and other documents lodged with the Council.

Factor 5 Score is moderate (3)

Factor 6: Timing and Duration of Effects

In accordance with section 86F of the RMA, the proposed amendments to rule ECO-R6 and ECO-Table 1 will have legal effect once formally notified. Once beyond challenge, the operative provisions will have an ongoing effect until reviewed as part of the Council's statutory requirements to undertake a plan review or as otherwise directed by any future gazettal of a National Policy Statement on Indigenous Biodiversity (which would define statutory time periods the Council must meet in order to implement any plan changes to achieve the NPS-IB requirements).

Notwithstanding the timing and duration of the effects of the proposed changes to the rule, it is important to note rule ECO-R6 and ECO-Table 1 are part of a larger existing rule framework

that protects significant indigenous vegetation. Council records show the rule is rarely used, but when it is there is a risk of misuse that will result in significant adverse effects. Resource consent applications under the proposed amendments to the rule would need to comply with the amendments from the date the plan change is notified.

If the plan change proposed to introduce a suite of wide-ranging new rules and standards for the protection of significant indigenous vegetation, the plan change would score high under this *timing and duration of effects* assessment. However, as the plan change seeks to make minor improvements to the rule to address unintended consequences and does not seek to change the existing rule framework or policy direction, it scores low.

Factor 6 score is low (1)

Factor 7: Type of Effects

The impact of the proposed changes to Rule ECO-R6 and ECO-Table 1 would shift some activities that are currently a controlled activity to a restricted discretionary activity, while focusing the application of the rule to addressing safety effects on people, buildings and infrastructure.

The modification of indigenous vegetation to remove vegetation that may be dying or diseased, or may risk damaging other protected vegetation will move from the controlled activity rule to the catch-all restricted discretionary rule. The reason for this is these matters require a closer evidential basis to confirm they are actual risks. As demonstrated by the independent ecology assessment of the case study resource consent, the two arborists involved in the resource consent (one for the applicant, and one for the Council to carry out a peer review) both incorrectly concluded the majority of the indigenous vegetation sought for removal under the rule was damaged, unsafe, and not independently viable.

The type of effects addressed by the plan change are those that fall under section 6(c) of the RMA as a Matter of National Importance, and section 7(d) as an Other Matter. Taking into account the majority of other reasons for seeking to modify protected indigenous vegetation are managed under other rules in the District Plan, the type of effects addressed by the plan change are considered to be moderate.

Factor 7 score is moderate (3)

Factor 8: Degree of Risk and Uncertainty

The District Plan already contains a comprehensive suite of objectives, policies, rules, standards and schedules that identify, protect and manage significant indigenous vegetation and significant habitats of indigenous fauna. Excluding the identified problems associated with the implementation of Rule ECO-R6 and ECO-Table 1, the plan provisions appear to be working well. The processing of resource consents under the other plan provisions that manage this topic is relatively common, and no other problems or unintended consequences have been identified to date.

The implementation issues of rule ECO-R6 and ECO-Table 1 have been identified and are well understood. The proposed amendments to these provisions intend to overcome the potential significant adverse effects that can result from the status quo. The amendments propose, among other things, limiting the number of indigenous trees that can be modified within a five year period. Consultation on draft provisions resulted in the identification of several improvements to the rule that have been incorporated into the plan change. These matters demonstrate there is a low level of uncertainty associated with this plan change.

Factor 8 score is low (1)

12.1 Overall Scale and Significance

The table summarises the scale and significance of the factors discussed above and the scores for each factor. The scores are then combined to give a total scale and significance score for the proposed plan change.

Table 1 Summary of Scale and Significance

Factor	Score
1. Reason for the Change	4
2. Resource Management Issues / Problem Definition	4
3. Degree of Shift from Status Quo	2
4. Who and How Many Will be Affected/ Geographical Scale of Effects	1
5. Degree of Impact on or Interest from Iwi/Māori	3
6. Timing and Duration of Effects	1
7. Type of Effects	3
8. Degree of Risk and Uncertainty	1
Total (out of 40)	19

Total Score Interpretation

0-10 Scale and Significance = Low

11-20 Scale and Significance = Moderate

21-30 Scale and Significance = High

31-40 Scale and Significance = Very High

The overall scale and significance of this plan change has been assessed as moderate. This means that this evaluation report needs to contain a moderate level of detail and analysis including:

- (i) A detailed planning analysis of the impact of the proposed changes;
- (ii) Expert ecology advice on actual and potential adverse effects;
- (iii) Thorough reasoning for each of the proposed amendments within the plan change;
- (iv) Demonstrate reasonable levels of consultation and consideration of feedback has taken place.

12.2 Quantification of Benefits and Costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal are to be quantified.

It is noted that:

- (i) The plan change will result in a more restrictive regime for a small number of uncommon activities compared to the status quo.
- (ii) The majority of concerns regarding the safety and health of significant indigenous vegetation can continue to be managed via permitted activity trimming under rule ECO-R3.

- (iii) Evidence demonstrates that the status quo can result in significant adverse effects on indigenous biodiversity values.
- (iv) The plan change will not result in a loss of development opportunity compared to the status quo, but it would require an appropriate assessment of actual and potential adverse effects on indigenous biodiversity (as intended by the objectives and policies of the District Plan).
- (v) The plan change will not result in the loss of employment opportunities.
- (vi) The plan change addresses concerns regarding the Council not meeting its section 6 and 31 RMA obligations.
- (vii) There is little likelihood of indirect flow-on effects that would arise from the plan change.
- (viii) The proportion of the district affected by the plan change, taking into account the limited application of the rule, is considered to be small.
- (ix) There is a high level of information available on the actual and potential effects that can arise from the status quo, and these effects will be significantly reduced by the plan change.

Considering these factors, and the fact the scale and significance of the plan change are assessed as being moderate, a quantification of costs and benefits is not considered necessary. In addition to this lack of necessity, it is not considered practicable to undertake specific quantification of the benefits and costs for the purposes of this report due to the intrinsic values of biodiversity which are better assessed in a qualitative manner as contained in the evaluation of the benefits and costs of the plan change below.

13 Reasonably Practicable Alternatives

The following identifies the alternatives considered to the proposed plan change.

Alternative 1: Status Quo

Maintaining the status quo is not considered to be a reasonably practicable alternative. The case study resource consent assessed by the independent ecologist demonstrates the significant adverse effects on indigenous vegetation that can result from the status quo.

The significance of the effects that have been shown as possible under the status quo are contrary to Part II of the RMA, and fail to give effect to the relevant objectives of the District Plan and requirements of the higher-level statutory planning documents.

Alternative 2: Delete Rule ECO-R6, Amend ECO-Table 1

One reasonably practicable alternative option would be to delete the controlled activity rule to eliminate the unanticipated outcomes that can give rise to significant adverse effects. This option would see the activities currently managed under the rule default to a restricted discretionary activity. This alternative approach would be consistent with the approaches used by a number of other district plans and proposed district plans as identified and discussed above. Although this would be an effective approach, it would not recognise and provide for the risk posed to people, buildings and infrastructure via a faster and more certain resource consent process.

This option would still amend ECO-Table 1 to ensure both species of Kānuka are protected under the relevant rules.

Alternative 3: Delete Rule ECO-R6, Amend ECO-Table 1, Amend Permitted Activity Rule ECO-R2

This option would be the same as the option above, only with additional amendments to add some or all of the activities managed under ECO-R6 to the permitted activity rule ECO-R2. This

option would be a similar approach to some of the district plans and proposed district plans identified and discussed above, however it would also result in the same ineffectiveness and compliance challenges identified. For these reasons this alternative is not considered appropriate.

13.3 Summary of Reasonably Practicable Alternatives

The only practicable alternative that would also achieve the objective of the plan change is Alternative 2. However, this option carries greater costs to persons who wish to address the potential risks that arise from unsafe protected trees.

Alternatives 1 and 3 are not considered to be reasonably practicable and are therefore not analysed further in this evaluation report. In addition to the plan change itself, Alternative 2 is taken forward for further evaluation below.

14 Evaluation of Benefits, Costs, and Risks

This section of the report evaluates the proposed amendments to the rule, standards, and ECO-Table 1, as they relate to the associated objectives of the plan and the plan change.

In addition to the proposed plan change, the Council has identified a reasonably practicable alternative to be evaluated below.

The evaluation method is qualitative, as this is considered appropriate for indigenous biodiversity and ecosystems, including their associated intrinsic values.

For the purpose of this evaluation, the following two potential options are evaluated:

1. The proposed provisions.
2. Alternative 2: Delete Rule ECO-R6, Amend ECO-Table 1.

Proposed plan change (recommended)	Costs	Benefits	Risks of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
<p>Amend standards to limit application of the rule to the modification of two indigenous trees within a five year period on an allotment, rather than an unlimited amount of indigenous vegetation.</p>	<p><i>Environmental</i></p> <p>Although this amendment will significantly reduce the extent of significant adverse effects on the environment compared to the status quo, removal of indigenous vegetation under this amended rule could still result in significant adverse effects on the environment by removing two significant indigenous trees. If the trees that can be removed under this amendment are an important habitat for endangered or at risk indigenous species, those adverse effects will not be identified via an ecological assessment, and any resulting adverse ecological effects are not a consideration under the controlled activity rule.</p>	<p><i>Environmental</i></p> <p>The number of indigenous trees that can be modified under the rule without having to assess and consider adverse effects on indigenous biodiversity is significantly reduced. This will significantly reduce the adverse effects on the environment possible under the rule.</p> <p>Protected indigenous vegetation species within ecological sites that are not trees can no longer be removed under the rule. Restricted discretionary resource consent will be required.</p>	<p>The risk of not acting is the controlled activity rule can be used to modify an unlimited number of indigenous trees without any consideration of the actual or potential adverse effects on the environment.</p> <p>The risk of acting is that the draft NPS-IB may come into force in December 2022, potentially making this option inconsistent with the NPS-IB requirements. Should this occur, Alternative Option 2 will</p>

	<p>Economic</p> <p>If a person desires to remove more than two significant indigenous trees within a five year period, they will generally be required to employ an ecologist to prepare an assessment of effects identifying the actual and potential adverse effects on indigenous biodiversity as part of a restricted discretionary activity resource consent.</p> <p>Restricted discretionary resource consents may be notified if adverse effects are more than minor or where the Council identifies affected persons. Such resource consent processes cost significantly more than a controlled activity resource consent, and obtaining approval for the consent from the Council is not guaranteed.</p> <p>Social</p> <p>Uncertainty regarding whether consent will be granted if seeking the removal of more than two significant indigenous trees from an allotment within a five year period.</p> <p>Cultural</p> <p>Similar to the environmental costs identified above, significant adverse effects can still occur under this amendment. Such an outcome would be contrary to the stated objectives of the documents recognised by mana whenua. No other cultural effects are identified.</p>	<p>Amendments to the standards require a suitably qualified arborist to certify the imminent risk posed by a tree cannot be addressed via permitted activity trimming, rather than modifying or removing the tree.</p> <p>Economic</p> <p>Persons wishing to heavily modify or remove significant indigenous trees will continue to be able to do so via a controlled activity resource consent but will be limited in the number of trees that can be removed under the rule. Resource consents for controlled activities cost less to lodge with the Council, and an ecology assessment with its associated costs is not required.</p> <p>Social</p> <p>People are able to provide for their health and safety via a simple consent process with the assistance of a qualified arborist.</p> <p>Cultural</p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p>	<p>likely be the most efficient and effective method to achieve the relevant objectives and Part II of the RMA.</p>
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		There are no other cultural benefits.	
<p>Amend standards to limit the application only to the modification of protected indigenous trees that are posing a demonstratable imminent risk to people, buildings, or infrastructure.</p>	<p>Environmental</p> <p>There are no environmental costs.</p> <p>Economic</p> <p>Persons wishing to remove protected indigenous vegetation due to fears it risks damaging other protected vegetation or spread disease to other vegetation will need to apply for a restricted discretionary activity resource consent. However, this economic effect is reduced as trimming to remove broken, deadwood or chronically diseased indigenous vegetation is a permitted activity under rule ECO-R3.</p> <p>Social</p> <p>There are no identified social costs.</p> <p>Cultural</p> <p>There are known no cultural costs.</p>	<p>Environmental</p> <p>The determination of whether a tree is fatally diseased, or no longer independently viable will generally need to be determined by an ecologist rather than an arborist. This will prevent the erroneous determination and removal of significant indigenous trees that have been misidentified as no longer viable by a person who is not suitably qualified (such as the errors made in the assessment of the viability of trees in the resource consent case study).</p> <p>Economic</p> <p>There are no economic benefits identified.</p> <p>Social</p> <p>Less protected indigenous vegetation may be removed under this option due to the higher evidential requirements of a restricted discretionary activity. Indigenous vegetation can be appreciated by society for its aesthetic and intrinsic values.</p> <p>Cultural</p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua</p>	<p>Low risk. This option addresses the identified issue of the lack of ecology advice for the modification of an unlimited number of protected indigenous trees.</p>

		<p>aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p> <p>There are no other cultural benefits.</p>	
<p>Amend the standards to introduce the requirement for an appropriately qualified arborist to certify that the imminent safety risk posed by the tree(s) cannot be addressed via permitted activity trimming under rule ECO-R3.</p>	<p>Environmental</p> <p>There are no environmental costs.</p> <p>Economic</p> <p>If trimming can address the imminent safety risk posed by protected indigenous trees, resource consent as a restricted discretionary activity would be required if modification is still required or desired (taking into account trimming is a defined term and works beyond the limits specified in the defined term are deemed to be modification). The employment of an arborist is already required to confirm the imminent safety risk, therefore any additional economic costs arising from this standard would be minor.</p> <p>Social</p> <p>There are no identified social costs.</p> <p>Cultural</p> <p>There are no known cultural costs.</p>	<p>Environmental</p> <p>Will encourage permitted activity trimming rather than modification and removal, thereby potentially retaining more significant indigenous biodiversity.</p> <p>Economic</p> <p>Potential saving of costs if trees can be pruned rather than modified or removed.</p> <p>Social</p> <p>People are still able to address identified imminent safety risks posed by protected indigenous trees via permitted activity trimming.</p> <p>Cultural</p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p>	<p>The risks are low under this amendment. This amendment further reduces the likelihood of significant adverse effects by requiring demonstration that permitted activity trimming is insufficient to address the identified and confirmed imminent risk.</p>

<p>Amend the standard to delete references to an arborist certifying that indigenous vegetation is no longer independently viable.</p>	<p>Environmental</p> <p>There are no environmental costs.</p> <p>Economic</p> <p>Less removal of protected indigenous vegetation as a controlled activity would result under this option. Resource consent as a restricted discretionary activity, potentially with the costs of supporting ecological evidence will be required for modification of protected indigenous vegetation beyond the proposed limits for modification.</p> <p>Social</p> <p>There are no social costs identified.</p> <p>Cultural</p> <p>There are no cultural costs identified.</p>	<p>Environmental</p> <p>The case study resource consent demonstrates that under this option less protected indigenous vegetation is likely be removed unnecessarily due to incorrect determination of its independent viability.</p> <p>Economic</p> <p>There are no identified economic benefits.</p> <p>Social</p> <p>Less protected indigenous vegetation may be removed under this option due to the higher evidential requirements of a restricted discretionary activity. Indigenous vegetation can be appreciated by society for its aesthetic and intrinsic values.</p> <p>Cultural</p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p> <p>There are no other cultural benefits.</p>	<p>Low risk. The ecology advice demonstrates why it is inappropriate to rely on arboricultural advice to determine independent viability of indigenous species (at least for the species involved under the case study resource consent).</p>
<p>Update the necessary qualification arborist</p>	<p>Environmental</p>	<p>Environmental</p>	<p>Low risk. This amendment will ensure arborists are</p>

<p>must have to ensure they are qualified to assess risks posed by trees.</p>	<p>There are no environmental costs.</p> <p>Economic</p> <p>NZQA Level 4 qualified arborists currently able to support resource consent applications under Rule ECO-R6 will only be considered suitably qualified under amended Rule ECO-R6 if they have obtained a higher level arboriculture qualification than the status quo requires. They can still support an application for a restricted discretionary activity resource consent.</p> <p>Social</p> <p>There are no identified social costs.</p> <p>Cultural</p> <p>There are no identified cultural costs.</p>	<p>Only trees that pose a genuine and demonstrable imminent risk to the safety of people and buildings will be able to be consented for removal under ECO-R6. The resource consent case study shows both arborists involved in the resource consent incorrectly determined the risk posed by the trees sought for removal. The environmental benefit is fewer protected indigenous trees will be removed without the necessary ecological assessment of environmental effects.</p> <p>Economic</p> <p>There are no identified economic benefits.</p> <p>Social</p> <p>There are no identified social benefits.</p> <p>Cultural</p>	<p>appropriately trained and qualified to identify the risks posed by trees, rather than only being qualified to identify that additional risk assessment needs to be carried out by an arborist who has higher qualifications.</p> <p>There is a risk there may be fewer suitably qualified arborists available for persons to employ to prepare information to support a resource consent application under rule ECO-R6. This may result in time delays in finding an arborist to assess risk.</p>
<p>Amend ECO-Table 1 to recognise the two species of Kānuka have significantly different height and diameters at maturity.</p>	<p>Environmental</p> <p>There are no environmental costs.</p> <p>Economic</p> <p>Resource consent may be required for the removal of the coastal species of Kānuka, whereas it is currently a permitted activity by way of the error in the height and circumference specifications for this species in the District Plan.</p> <p>Social</p> <p>There are no social costs.</p>	<p>Environmental</p> <p>The smaller coastal species of Kānuka will be protected under the relevant rules, rather than being deemed to be immature and able to be removed. This will improve indigenous biodiversity values in the District by appropriately describing and protecting this species.</p> <p>Economic</p> <p>There are no economic benefits.</p> <p>Social</p>	<p>The risk of not acting is that more of the coastal Kānuka species will be able to be removed without any consideration of the actual and potential adverse effects.</p> <p>The ecological advice notes the coastal Kānuka may appear to be immature Kānuka, but is in fact mature and can be many</p>

	<p>Cultural</p> <p>There are no cultural costs.</p>	<p>There are no social benefits.</p> <p>Cultural</p> <p>The better protection of an endemic indigenous species of Kānuka fits well with the objectives of the documents recognised by mana whenua. There are no other cultural benefits.</p>	<p>decades old despite its small relative size.</p>
Effectiveness and Efficiency			
<p>Effectiveness</p> <p>This option is less effective at achieving the objectives of the plan and the objective of the plan change when compared to Option 2. As explained in the independent ecology advice in Appendix 1 significant adverse effects on protected indigenous biodiversity may still occur under some circumstances. This is also a potential outcome identified by Forest and Bird during consultation on draft provisions.</p> <p>However, this option will considerably reduce the potential for significant adverse effects from occurring compared to the status quo, while recognising the importance of enabling people to address genuine health and safety risks. An amendment has been proposed to the rule in response to the issues raised by Forest & Bird to require the demonstration that the identified imminent safety risk cannot be addressed via permitted activity trimming. The Council also retains control over the necessity for the works.</p> <p>The ability to justifiably remove protected significant indigenous trees that posed a demonstrable and imminent threat to people and buildings from protected significant indigenous trees is considered to be more efficient as a controlled activity than the restricted discretionary activity that would be required under Alternative 2, because a dangerous tree will generally be required to be removed regardless of resource consent activity status. Ensuring the danger is identified by an appropriately qualified person, and that the danger</p>		<p>Efficiency</p> <p>Enabling a limited number of protected indigenous trees that are posing a demonstrable imminent risk to people and buildings via a controlled activity resource consent with supporting information from a suitably qualified arborist (including demonstrating why the risk cannot be addressed via permitted activity trimming) is an efficient method to manage this issue. This option enables a faster and guaranteed consent process compared to a restricted discretionary consent process. Under this option the Council is enabled to check the supporting arborist information to confirm risk and necessity for carrying out the modification to protected trees.</p> <p>This option efficiently addresses the implementation and enforcement issues identified in this evaluation report with respect to other options considered such as permitted status for modification of protected indigenous trees, while still providing for a simplified consent path.</p> <p>The Council is able to efficiently meet its statutory duties, functions and responsibilities to maintain indigenous biodiversity under this option.</p>	

<p>cannot be addressed via trimming are considered the best approach to managing this issue.</p> <p>This option effectively addresses the implementation and enforcement issues identified in this evaluation report with respect to other options considered such as permitted status for modification of protected indigenous trees, while still providing for a simplified consent path.</p>			
<p>Overall evaluation</p> <p>Considering the identified costs and benefits, this is the most efficient and effective option to achieve the objectives of the District Plan, the objective of the plan change, and to achieve Part 2 of the RMA.</p> <p>Should the NPS-IB may come into force in December 2022, it could potentially result in the proposed changes to rule ECO-R6 inconsistent with NPS-IB requirements. Should this occur, Alternative Option 2 will likely be the most efficient and effective method to achieve the relevant objectives and Part II of the RMA. It is possible controlled activity status for modification under this rule may not enable the consideration or all relevant matters, and may not give the Council sufficient discretion over whether to grant a resource consent should the outcomes be inconsistent with the NSP-IB. This issue will be monitored and addressed as this plan change and the NPS-IB progress through their respective processes.</p>			
<p>Alternative 2: Delete Rule ECO-R6, Amend ECO-Table 1 (not recommended)</p>	<p>Costs</p>	<p>Benefits</p>	<p>Risks of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions</p>
<p>Delete ECO-R6 in its entirety.</p>	<p>Environmental</p> <p>There are no environmental costs.</p> <p>Economic</p> <p>Persons wishing to remove protected indigenous vegetation due to fears it risks damaging other protected vegetation or spread disease to other vegetation will need to apply for a restricted discretionary activity resource consent. However, this economic</p>	<p>Environmental</p> <p>All modification of protected indigenous vegetation will require a restricted discretionary resource consent. Trimming can still occur as a permitted activity, however any proposed modification beyond trimming may require ecological input. This option is superior to the recommended approach</p>	<p>Risks are low under this option. There is sufficient information about the subject matter and no uncertainty regarding the impact of this option.</p>

	<p>effect is reduced as trimming to remove broken, deadwood or chronically diseased indigenous vegetation is a permitted activity under rule ECO-R3.</p> <p>Social</p> <p>There are no social costs identified.</p> <p>Cultural</p> <p>There are no cultural costs identified.</p>	<p>under the plan change with respect to environmental benefits.</p> <p>Economic</p> <p>There are no known economic benefits.</p> <p>Social</p> <p>Less protected indigenous vegetation may be removed under this option due to the higher evidential requirements of a restricted discretionary activity. Indigenous vegetation can be appreciated by society for its aesthetic and intrinsic values.</p> <p>Cultural</p> <p>The better protection of an endemic indigenous species of Kānuka fits well with the objectives of the documents recognised by mana whenua. There are no other cultural benefits.</p>	
<p>Amend ECO-Table 1 to recognise the two species of Kānuka have significantly different height and diameters at maturity.</p>	<p>Environmental</p> <p>There are no environmental costs.</p> <p>Economic</p> <p>Resource consent may be required for the removal of the coastal species of Kānuka, whereas it is currently a permitted activity by way of the error in the height and circumference specifications for this species in the District Plan.</p> <p>Social</p> <p>There are no social costs.</p>	<p>Environmental</p> <p>The smaller coastal species of Kānuka will be protected under the relevant rules, rather than being deemed to be immature and able to be removed. This will improve indigenous biodiversity values in the District by appropriately describing and protecting this species.</p> <p>Economic</p> <p>There are no economic benefits.</p> <p>Social</p> <p>There are no social benefits.</p>	<p>The risk of not acting is that more of the coastal Kānuka species will be able to be removed without any consideration of the actual and potential adverse effects.</p> <p>The ecological advice notes the coastal Kānuka may appear to be immature Kānuka, but is in fact mature and can be many decades old despite its small relative size.</p>

	<p>Cultural</p> <p>There are no cultural costs.</p>	<p>Cultural</p> <p>The better protection of an endemic indigenous species of Kānuka fits well with the objectives of the documents recognised by mana whenua. There are no other cultural benefits.</p>	
Effectiveness and Efficiency			
<p>Effectiveness</p> <p>This option is effective at addressing the issue as it would eliminate the potential for significant adverse effects identified under the preferred option. However, this option fails to provide for the ability of persons to address significant imminent risks posed by protected indigenous trees to the health and safety of people and buildings. Therefore, although highly effective at addressing the issue of maintaining indigenous biodiversity, it is not as effective as the preferred option at enabling people to provide for their health and safety.</p>		<p>Efficiency</p> <p>This option is efficient at addressing the objectives of the District Plan and the plan change, as it will eliminate the potential for significant adverse effects on indigenous biodiversity to occur in the absence of ecological evidence. However, this option is less efficient than the preferred option for persons who need to apply for resource consent as a restricted discretionary activity (rather than a controlled activity consent) to address significant imminent safety risks to themselves and others, and buildings posed by protected indigenous vegetation. This option would result in increased economic and social costs to these people as a result of the increased time and evidence required to obtain a resource consent, which the Council has the discretion to notify and decline.</p>	
<p>Overall evaluation</p> <p>This option is more effective than the recommended approach at addressing the issue of maintaining indigenous biodiversity but is less effective at enabling people to provide for their health and safety. Similarly, this option is more efficient at addressing the issue of maintaining indigenous biodiversity as it would require a restricted discretionary resource consent application to be made with supporting ecological advice either at the time of application or provided in response to a Council request for further information. For persons needing to address significant imminent health and safety risks posed by protected indigenous trees, this option is not as efficient as the recommended option.</p> <p>Taking into account the identified costs and benefits, this option is not as efficient or effective at addressing the objectives of the plan, the plan change, or Part II of the RMA, chiefly as it does not balance the need to maintain indigenous biodiversity with the purpose of the RMA to enable people to provide for their health and safety (section 5(2)). This may change should the NPS-IB be gazetted in December 2022. This issue will be monitored and addressed as this plan change and the NPS-IB progress through their respective processes.</p>			

15 Overall conclusion

This evaluation has been undertaken in accordance with Section 32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the proposed plan change having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA.

The evaluation demonstrates that this proposed plan change is the most appropriate option as it:

- (i) Best gives effect to the higher order statutory planning documents;
- (ii) Is the most effective and efficient way to achieve the purpose of the RMA, the District Plan objectives, and the objectives of the plan change;
- (iii) Ensures the Council will meet the requirements of section 31 of the RMA;
- (iv) Addresses the identified issues.

Appendix 1 – Ecological Advice