

## 5.2 SIGNIFICANT FLORA AND FAUNA ASSESSMENT

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### TAKE PŪRONGO / PURPOSE OF THE REPORT

The purpose of this report is to provide information on how various consent decisions are made in relation to Significant Flora and Fauna in the Far North District, primarily when associated with subdivisions.

### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

Recent Significant Natural Area (SNA) mapping released by the councils Strategic Planning and Policy team has generated interest in conservation covenants, subdivision involving SNA's, subdivisions and pet restrictions, kiwi mapping and its influence of resource consents and the District Plan (Operative and draft proposed version).

There are several considerations that need to be taken into account when processing land use and subdivision activity applications when making a decision on whether there may be an effect on the indigenous flora and fauna.

A consent and any conditions issued by the Resource Consents team needs to be consistent with all relevant documentation under the RMA, and this is reflected in the decisions that are issued.

### TŪTOHUNGA / RECOMMENDATION

**That the Regulatory Compliance Committee receive the report Significant Flora and Fauna Assessment.**

### TĀHUHU KŌRERO / BACKGROUND

The Resource Management Act 1991 (RMA) provides a mandate and requires Regional Authorities such as Northland Regional Council (NRC) to create a Regional Policy Statement (RPS) which identifies how sustainable management of the region is to be achieved, while Territorial Authorities such as Far North District Council (FNDC) are required to create plans identified as District Plans to carry out their functions under the RMA. The District Plan relates to the control and regulation of activities that have effects on the environment. The District plan must reflect the principles under the RPS. The current FNDC Operative District Plan was made operative and effective in 2009.

There are two types of consents that are considered under the District Plan for assessment, these being land use and subdivision activities. Land use consents are associated with the regulation of effects from an activity being carried out on a site, such as building a house. Subdivision consents are the process through which new property rights are created under the RMA. Both types of consents are subject to two chapters within the District Plan when making a decision on whether there may be an effect on the indigenous flora and fauna.

The consents process is a process that is subject to not only the District Plan but to the Regional Policy Statement, any National Policy Statement, any National Environmental Standard and lastly Part II of the RMA for sustainable management.

## **MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND NEXT STEPS**

### **Resource Consents - Land use**

Chapter 12.2 of the District Plan (see attachment A) – Indigenous Flora and Fauna, identifies several environments within the district that are significant on a local, regional and national scale. The territorial authority (FNDC) must protect and maintain indigenous biodiversity from declining due to various issues such as vegetation clearance, fragmentation and loss of fauna impacting the environments as identified under the RMA.

Objectives to protect, maintain and enhance our indigenous biodiversity were created, with policies to support the objectives and rules that assist in identifying the effects on the indigenous biodiversity that require consideration. Policies 12.2.4.10 and 12.2.4.11 along with Method of Implementation 12.2.5.7 provide for controls on the keeping of cats and dog in kiwi habitat areas.

Where an activity is proposed on a site, such as building a house, the activity may breach a rule within Chapter 12.2, in which case a resource consent is required for the breach. The resource consents team review the proposal and assess the activity to determine the level of effects associated with the activity. Where an effect is identified as being adverse, the effect/s are to be avoided, remedied or mitigated.

Conditions based on those effects are imposed on decisions where the activity is sustainably managed, in the case of indigenous flora and fauna these conditions may relate to the restriction of cats, dogs and other pest species, where they may adversely affect native fauna but predominately relate to the protection, preservation and/or enhancement of vegetation.

All consents are required to have an adverse effect identified for a condition to be imposed. A consent cannot have conditions imposed where there is no effect.

Cats and dogs are the two species most regularly discussed for restriction as Rule 12.2.6.4.1 – Pest Species prohibits any pest listed within the rule to be introduced, kept, farmed, or bred other than for the purposes of controlling or eradicating the species.

### **Resource Consents - Subdivision**

Subdivision proposals are subject to Chapter 13 – Subdivision, within which Chapter 12.2 - Indigenous Flora and Fauna is referenced when a subdivision has significant vegetation or significant fauna on the site that is being considered for subdivision.

The continued preservation of the indigenous flora or fauna is required for the approval of a subdivision consent. This is achieved by protecting the vegetation on-site as well as in certain cases restricting cat and/or dogs on the site. Where cat and dog restrictions are imposed, they have been considered due to an effect a dog or cat could have on the significant fauna that would be found on that site or in proximity to the site.

For example, a proposal to create a new lot adjacent to a coastal reserve, which has been identified as a habitat where Dotterel are located on. Introduction of cats and dogs in proximity to the Dotterel would be considered adverse, therefore a restriction on cats may be imposed as they are one of the most known common predator species of the dotterel, while dog control conditions may be required to ensure dogs introduced to the area are kept away from the Dotterel, by way of physical barriers and limitation on the number of dogs kept on the site.

**Significant Flora and Fauna Assessment for the current Operational District Plan****Kiwi Mapping**

Kiwi mapping is carried out by the Department of Conservation (DOC), through the kiwi listening programme which began in 1996. Every year kiwi calls are monitored across the district and the data is collated by DOC into a map system identifying areas by kiwi abundance. The maps are reviewed every five years and updated if required, this process and further information on it can be found on the DOC website. See attachment B, Bay of Islands Kiwi Distribution Map.

The maps identify two types of density, these being kiwi high and kiwi present, areas not identified as either data deficient areas where either kiwi may not be present or there is insufficient information received through the monitoring programme to influence the mapping.

Kiwi high areas are areas where more than five calls per hours are heard, and these number must remain steady or increase over the five-year period to be mapped as kiwi high. Kiwi present areas are where an average of less than five calls per hour are heard. The maps are available through the DOC system and Council's mapping system (Far north Maps) for review.

**Significant Flora and Fauna Practice Note for the Operational District Plan**

The Resource Consents team utilise the kiwi map along with other maps and tools such as the "mudfish layer", Protected Natural Areas (identified by DOC ) overlay, land care group comments and ecological reports to assist in the assessment of consents and the conditions of consent decision. To ensure consistency within the department, a practice note was developed which gives guidelines on when conditions relating to cat and dogs should be applied for the purposes of protecting the Northland Brown Kiwi and other indigenous flora and fauna. Refer attachment C, FNDC Practice Note for Significant Indigenous Flora and Fauna.

Standardisation of a practice note has been discussed however the consent process is subject to change due to the policy direction as well as case law, and the individual matters of each consent assessed. The practice note is an internal document for guidance only, each application received by the team is assessed independently on a case by case basis. The practice note is there to ensure that staff are consistent in their methods and wording of conditions and is not utilised as a broad-brush mechanism to restrict cats and dogs within the district.

The current practice note does not refer to the National Policy Statement for Indigenous Biodiversity as it is currently only a draft with no statutory weight in the determination of a resource consent and its conditions.

**Conservation Covenants**

Conservation covenants are voluntarily offered by landowners for the purpose of protection of outstanding landscapes, cultural, heritage or ecological purposes. Ecological areas are protected under section 77 of the Reserves Act 1977 and are created between the landowner and Far North District Council. The covenant is registered on the landowner's Title in perpetuity.

The landowner is responsible for the management of the protected area as agreed upon within the covenant, assistance from an ecological expert is provided and rates relief/remission or postponement can be offered. Rates remission is in perpetuity, while rates postponement is for a minimum period of 10 years and where the agreement is discontinued the rates may be subject to repayment.

Conservation covenants will include conditions such as stock restrictions, indigenous vegetation clearance restrictions, exotic vegetation removal requirement and restriction of exotic animals such as ferrets, dogs and cats. It is important to note the pet restriction relates specifically to the covenanted area only.

### **Consent Notice Conditions**

These are conditions imposed on subdivision consents where the requirements are ongoing such as the protection of bush areas or wetlands. They are generally imposed where the land being subdivided contains areas of significant indigenous habitat or vegetation. They are also utilised for imposing cat and dog restrictions in kiwi habitat areas and site development conditions. They are registered on the property title and are a form of covenant but are not eligible for rates relief.

### **PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

This report has no financial implications or budgetary provisions

### **ĀPITI HANGA / ATTACHMENTS**

1. **Attachment A 12-natural-and-physical-resources-full-chapter-for-oc - A3271638**
2. **Attachment C FNDC Practice Note for Significant Indigenous Flora and Fauna (002) - A3271637**
3. **Attachment B Kiwi Distribution Map - A3273338**

### **Compliance schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

**This table must be completed in full – keep your answers brief, as detailed consideration of these issues should form part of the body of your report.**

<b>Compliance requirement</b>	<b>Staff assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	Low Significance – this matter does not meet the criteria/threshold for a matter of significance.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Resource Management Act 1991 FNDC District Plan LTP Community Outcomes: <ul style="list-style-type: none"> <li>• Communities that are healthy, safe, connected and sustainable.</li> <li>• Prosperous communities supported by a</li> </ul>

	<p>sustainable economy</p> <ul style="list-style-type: none"> <li>• A wisely managed and treasured environment that recognises the special role of tangata whenua as kaitiaki</li> </ul>
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	District Wide Significance
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	No specific implications
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	<p>FNDC Community</p> <p>Ministry for the Environment</p> <p>Department of Conservation</p>
State the financial implications and where budgetary provisions have been made to support this decision.	No Financial Implications
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.

COPY OF PREVIOUS REPORT 20 JULY 2021