



**Napier Proposed District Plan**

**Hearing Stream 2: Strategic Direction**

**Speaking notes of Forest & Bird, submission 289**

**3 Dec 2024**

Tihei mauri ora

Te whare e tū nei – tena koe

Te papa i waho – tena koe

Rau rangatira mā,

Tena koutou, tena koutou, tena koutou katoa

Ko Chantal Pagel toku ingoa

No Tiamana oku tipuna

He kaimahi ahau mō Te Reo o Te Taiao

1. My name is Chantal Pagel. I represent Forest & Bird and eight regional branches as conservation manager for Hawke’s Bay, East Cape and the Bay of Plenty. I hold qualifications in Environmental Science (B.Sc.), International Nature Conservation (M.Sc./M.I.N.C.) as well as nature-based tourism (PhD), and I lead Forest & Bird’s campaign on protecting Indigenous biodiversity under Te Mana o Te Taiao – the Aotearoa NZ Biodiversity Strategy.

2. Today, I am speaking on behalf of Forest & Bird and our local branch in relation to our submissions and further submissions on the Proposed District Plan, specifically to the Subdivisions chapter, General District Wide Matters and Natural Environment Values.
3. We commend the council on its dedicated principle to strive for environmental excellence. We also consider that the need for preservation, protection, enhancement, and improvement of remaining Indigenous biodiversity is only increasing in the current context of a biodiversity and climate crisis, and it is of utmost importance that this is adequately reflected in the Proposed District Plan.
4. For this reason, Forest & Bird are concerned about the absence of the Ecosystem and Indigenous Biodiversity chapter in the proposed plan and the intent for this to be added by way of variation at a later date.
5. While acknowledging that the Council has limited resources available, in our initial submission, we advised it to be essential that the proposed chapter on Ecosystems and Indigenous Biodiversity is notified before hearings on other related parts of the District Plan take place. This would enable the Hearing Panel to understand the Council's overall position, to ensure that the plan is internally consistent and integrated, and to ensure that the entire plan properly implements the purpose of the RMA and national and regional policy instruments on Indigenous biodiversity and the natural environment. Further, it would have facilitated the process for the Society to adequately comment and advise on potential environmental impacts within the Proposed District Plan.
6. Forest & Bird's submissions addressed many matters throughout the proposed plan, including seeking retention of provisions we support, seeking clarification of wording, and seeking amendments. All of our submissions were intended to ensure the plan provides for:

- a. the preservation and protection of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins
  - b. the protection of outstanding natural features and landscapes
  - c. the protection of areas of significant Indigenous vegetation and significant habitats of Indigenous fauna
  - d. maintenance and improvement of Indigenous biodiversity where it's not outstanding or significant.
7. The officer's s42A report recommends accepting many of the points raised in our submission. In some cases, it is recommended that the points raised be declined. While we accept and agree with the officer in some of these cases, we do not agree with them all. I will outline those points in more detail shortly.
8. Before I do, though, the section 42A officer for the Earthworks Chapter in paragraphs 112 – 118 has recommended: *That Royal Forest and Bird's submission 289.176 be deferred to the Natural Features and Landscapes Chapter and that the relief sought specific to the rule sought for Earthworks within the Coastal Environment is discussed at the Hearing.*
9. To assist this discussion, firstly, our submission sought that earthworks in the Coastal Environment should be a non-complying activity, or if any earthworks in the Coastal Environment were a restricted discretionary activity, ensure that matters of discretion include natural character in the coastal environment. We also sought that non-notification clauses should not apply to these areas.
10. The reasons we sought these changes were because:

- a. As notified, earthworks in the coastal environment would be a permitted activity (if standards are met) and a restricted discretionary activity if they are not met.
- b. The Coastal Environment Chapter relies on the other chapters in the plan to give effect to the objectives and policies of the CE chapter. Still, it needs to be clarified that this has occurred comprehensively. For example, the earthworks rules do not provide for specific management in the coastal environment and include various rules that do not apply differently within or outside the coastal environment.
- c. Earthworks in the coastal environment can have adverse effects on significant Indigenous biodiversity and natural character. As a result, much more stringent controls are required than for activities outside the coastal environment because of the sensitivity of coastal values and also because of the different higher-order policy direction and purpose of the Act. Most activities will not be appropriate as permitted activities in the coastal environment.
- d. Notification clauses in EW-R1 prevent public and limited notification of applications for earthworks consents. Applications' adverse effects may cause adverse effects that warrant participation through notification.

11. Instead of the Coastal Environment objectives and policies being appropriately given effect to in the earthworks rule framework, Forest & Bird's position and relief sought remain the same:

- a. The chapter should include specific rules managing activities in the coastal environment. These rules should recognise that most activities will not be appropriate as permitted activities in the coastal environment.
- b. Notification of earthworks resource consent applications in the coastal environment should be considered.

12. Moving now to the points we disagree on:

Submission point and provision	Comments on officer's position in s42A report	Further relief sought
<p>Protection of Indigenous biodiversity</p> <p>(Coastal Environment, Earthworks, Natural Features and Landscapes and Subdivision Chapters)</p>	<p>Across the Coastal Environment, Earthworks, Natural Features and Landscapes and Subdivision Chapters, we sought references to the ECO chapter to be inserted into the introduction text.</p> <p>We also sought more specific objectives, policies and rules for Indigenous biodiversity given the Coastal Environment, Earthworks, Natural Features and Landscapes and Subdivision Chapters provisions manage Indigenous biodiversity instead of an ECO chapter. This was rejected, with officers citing the upcoming ECO chapter as the most appropriate vehicle for these changes to occur.</p> <p>For example, in the subdivision section 42A, our relief was rejected '<i>...due to the current lack of certainty regarding the contents of the ECO variation</i>' (p.25). This lack of certainty creates challenges in adequately protecting and safeguarding Indigenous biodiversity from inappropriate subdivisions, use and development. In our opinion, it is not appropriate to make decisions on subdivisions in the Napier District without looking at the bigger picture, and we therefore oppose this chapter.</p>	<p>Insert references to the ECO chapter, as per our submission, into the Coastal Environment, Earthworks, Natural Features and Landscapes, and Subdivision Chapters.</p> <p>Ensure that the issues in each chapter cover Indigenous biodiversity.</p> <p>Ensure objectives and policies in each chapter cover Indigenous biodiversity.</p> <p>Ensure rules in each chapter cover Indigenous biodiversity, recognising that in most cases, permitted and controlled activities in these chapters will not be appropriate to protect, preserve, maintain and enhance Indigenous biodiversity.</p> <p>Our submission contains proposed changes to achieve the relief sought.</p>

	<p>In the Natural Features and Landscapes Chapter, our relief was rejected because <i>‘any overlaps between provisions relating to biodiversity and those relating to NFL will be addressed at the time of the variation.’</i> While we understand that the absence of the Ecosystems and Indigenous Biodiversity Variation poses significant challenges to determine adequate protection measures for those assets, the following interim decision from the officer does not clarify what rules will be developed to prevent adverse impacts on biodiversity.</p> <p>As a result of our submission points being rejected and the ECO chapter not yet being notified, we feel the Council has not provided adequate protection for Indigenous biodiversity.</p>	
<p>Earthworks – Environmental Interests</p>	<p>We believe the term ‘necessary’ is too broad and will potentially allow inappropriate earthworks, depending on what interested parties deem necessary. (p.18/60).</p>	<p>Use ‘where appropriate’ in objectives, policies and rules instead of ‘necessary’ as per our submission.</p>
<p>NFL - Natural Features and Landscape /NFL - Natural Features and</p>	<p>We appreciate the officer’s support to provide a higher level of protection by making earthworks in Outstanding Natural Features (ONFs) non-complying due to their sensitivity (p.29). While the officer correctly refers to s6 of the RMA, it is</p>	<p>Include a higher level of protection for SCLs and SCFs in the rule framework.</p>

<p>Landscapes - Rules Table/General</p>	<p>incorrect to suggest that SCLs and SCFs require a lower level of protection. Specifically, there is a contradiction between this support and comments made in paragraph 88 in response to our submission 289.83 (p.30):</p> <p><i>'I support including specific references to Special Character Landscapes (SCLs) and Special Character Features (SCFs) that are located within the coastal environment to better align with the NZCPS, as this strengthens the protection of these areas.'</i></p>	
<p>Notification clauses</p>	<p>Our submission sought for notification clauses to be removed in the earthworks and natural features and landscapes chapter. This is because an activity not meeting the permitted standards could cause adverse effects such that public participation is warranted.</p> <p>This point has been rejected by officers in both sections 42A. Forest &amp; Bird maintain that notification preclusions are not appropriate.</p>	<p>Remove notification preclusions as per our submission. In some instances, public participation may be warranted, and sections 95A and 95B are the most appropriate method for determining this rather than a blanket preclusion.</p>



On behalf of our local branch and the Society, we thank Napier City Council for the opportunity to speak today. We anticipate the notification of the chapter variations and look forward to providing further thought in the upcoming Hearing Streams. We wish you all the best in your deliberations.

Kia ora.