

## 2.11 Biodiversity– section 32 evaluation for the Proposed Auckland Unitary Plan

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## **1 Overview and Purpose**

This evaluation should be read in conjunction with Part 1 in order to understand the context and approach for the evaluation and consultation undertaken in the development of the Proposed Auckland Unitary Plan (the Unitary Plan).

### **1.1 Subject Matter of this Section**

This section addresses provisions to promote the maintenance of indigenous biodiversity and the protection of significant indigenous vegetation and significant habitats of indigenous fauna in Auckland.

### **1.2 Resource Management Issue to be Addressed**

The Auckland region has a highly diverse natural environment and contributes significantly to New Zealand's biodiversity. The region's myriad of volcanic cones and craters, streams, wetlands, estuaries and harbours, an intricate coastline including dunes and offshore islands, all supporting a rich diversity of plants and animals, some of which are found nowhere else in the world. This is the indigenous biodiversity that people rely on for many different social, cultural and economic reasons. The State of the Auckland Region report (2010) describes the increasing pressures that a growing population continues to place on the biodiversity of our natural environment including. Historical development has resulted in loss of habitats and a reduction in biodiversity. Many of Auckland's ecosystems are well below 10% of their original extent and are therefore vulnerable to further loss of values and eventual regional extinction if they are not properly protected and managed

Additionally, Auckland's indigenous biodiversity is threatened by pest species which damage and out-compete native species and ecosystems, and these pest threats can be exacerbated by development. Development pressures are ongoing and likely to increase with Auckland's population and economic growth. Climate change poses a significant threat to indigenous species, both through changing environmental conditions and potentially facilitating the establishment and spread of pest species.

### **1.3 Significance of this Subject**

The range of provisions relating to the management of indigenous biodiversity varied between the legacy councils. This requires a standardisation and application of best practice national approaches consistently across Auckland. Recent changes to legislation have also necessitated the use of regional, rather than district rules to maintain indigenous biodiversity and protect significant indigenous vegetation and fauna habitats.

Implementation of the provisions will contribute to the protection and enhancement of indigenous biodiversity. Identification of significant ecological areas provides certainty to landowners about provisions applying, with consequent certainty about development options and issues, as well as helping provide a focus for ecological restoration efforts across Auckland. Mana whenua have a strong association with indigenous biodiversity and wish to see it protected and enhanced, including because of its importance as a food and cultural resource. Indigenous biodiversity provides significant ecosystem services which contribute to the economic, social and cultural wellbeing of all of the people of Auckland.

### **1.4 Auckland Plan**

The Auckland Plan acknowledges that habitats and ecosystems must be protected and restored in order to maintain biodiversity. The Auckland Plan also sets out in Chapter 7 that "nature and people are inseparable" with relevant targets including:

- Ensure no regional extinctions of indigenous species and a reduction in the number of 'Threatened' or "At Risk" taxa from 2010 levels by 50% by 2040.
- Reduce the vulnerability of identified ecosystems by ensuring a 95% probability of each ecosystem type being in a viable state by 2040.

Indigenous biodiversity and ecosystems provide ecosystem services and are an important component of the natural character, green infrastructure, natural landscape, natural feature and/or natural heritage of a specific location. For these reasons biodiversity values are widely referenced in the Auckland Plan, including as part of the following directives.

Directive 7.1 requires that ecosystems services are acknowledged and accounted for when making decisions.

Directive 7.2 requires that the contribution made by natural heritage [including biodiversity] urban quality, sustainable rural land management and the opportunities it affords for conservation are recognised and promoted.

Directive 7.4 requires identification of places of high natural heritage value,

Directive 7.5 requires the protection of ecological areas, ecosystems and areas of significant indigenous biodiversity from inappropriate use and development, and contributes to restore and improve ecosystems and indigenous biodiversity.

Directive 7.12 requires the protection of coastal areas, including significant marine habitats from the impacts of use and development, and the enhancement of degraded areas.

Directive 8.2 requires the protection and enhancement of Auckland's green infrastructure networks.

### **1.5 Current Objectives, Policies, Rules and Methods**

The operative Auckland Regional Policy Statement includes provisions which address heritage (including natural heritage), coastal and freshwater environments. These gave direction to district and regional plans in the management of indigenous biodiversity.

Most legacy district plans have provisions relating to the management of biodiversity. However, the nature and scope of these did vary significantly, and there were high degrees of inconsistency cross Auckland. For example, no two districts used the same criteria or methodology for identifying areas.

The legacy approaches are summarised below:

- Rodney District – SEA equivalents identified, focused on the identification of areas of the highest value. No set criteria used to identify areas, instead relying on conclusions from various ecological surveys. Rules used to protect SEAs, although with different standards in different parts of the district. Bonus subdivision provisions available<sup>1</sup>, and used to create very large numbers of rural lots. General provisions used to protect indigenous vegetation outside SEAs.
- North Shore City – Only very limited numbers of SEA equivalents identified in coastal areas, with the plan instead relying on zones to protect most significant ecological areas (with SEAs not mapped, but encompassed within zones). No set ecological criteria used to identify areas. Rules to protect contiguous vegetation within specific zones.
- Waitakere City – Very comprehensive approach to identification and protection of ecological areas, using criteria. These encompassed in various Natural Areas, with restrictive rules applying, varied according to the relative significance of areas.

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<sup>1</sup> Whereby extra subdivision potential was available in exchange for legal protection (covenants) and enhancement of areas

Virtually no change in SEAs although Unitary Plan SEAs more accurate with roads, driveways, buildings etc. more precisely delineated.

- Auckland City – SEA equivalents almost exclusively on public land only. Some rules applying to protect vegetation.
- Manukau City. Virtually no identification of SEA equivalents (One wetland 3ha in total).
- Papakura District. SEA equivalents updated through recent Plan Change. Significance criteria not included in plan. Some rules applying to protect areas.
- Franklin District. Some SEAs identified through use of criteria, protected by rules.

The Auckland Regional Plan: Coastal (the Coastal Plan) includes provisions relating to the management of biodiversity values in the marine environment. This plan identifies Coastal Protection Areas (CPAs) 1 and 2, which are areas of particular value and vulnerability in the coastal marine area (CMA). The Coastal Plan contains policies and rules applying to the CMA generally, and to the CPAs specifically.

### **1.6 Information and Analysis**

The SEA provisions in the Unitary Plan, including the criteria for identifying SEA sites and rules for their management, were developed through a process of:

- Reviewing existing policy and methods for the protection of indigenous biodiversity, in Auckland and elsewhere
- Consideration of monitoring information
- Review and research into criteria to identify of significant ecological areas, with internal and external peer review
- Identification of significant ecological areas through a combination of ecological survey (~2000 sites) and review of existing ecological information (~4000 sites)
- Review of significant ecological area identification and maps, both in response to submission and as part of a data improvement exercise

### **1.7 Consultation Undertaken**

SEAs have been consulted on extensively, in particular through direct notification of, and discussions with, affected landowners, prior to the official public submission period. This came in the form of a letter which was sent to all directly affected parties. From here, landowners were able to provide feedback on the March draft of the Unitary Plan which has resulted in numerous minor changes to the SEA overlay as seen in the proposed Unitary Plan, and some changes to the rules to make them less restrictive.

Several public and stakeholder meetings have been held on biodiversity provisions. Adjacent Regional Councils have also been consulted with.

### **1.8 Decision-Making**

The SEA topic has been presented at numerous meetings with the governing body (Political Working Party, PWP) during the course of the development of the Unitary Plan. Key meetings have been listed here:

- PWP endorsed recommended approach to SEAs but requested information on SEAs sooner than October – 2012/07/26
- PWP endorsed mapping of SEAs (existing sites and investigation layer) and requested briefing for absent councillors to address confidentiality of information – 2012/08/02
- Auckland Plan Committee – Unitary Plan Direction setting 2013/22/07. Confirmed approach.

This is discussed in more detail in section 5.3 below.

### **1.9 Proposed Provisions**

The proposed Unitary Plan includes four objectives which direct the protection or restoration of indigenous biodiversity, including across the region generally, and in specific locations such as the Waitakere Ranges, Hauraki Gulf Marine Park, and coastal areas. Additionally, a fifth biodiversity related objective requires the particular relationship between Mana Whenua and indigenous biodiversity to be acknowledged (4.3.4.1 – 5).

Policies give effect to these objectives by:

- setting out the criteria for identifying significant ecological areas and showing the boundaries of proposed SEA's in terrestrial, marine and freshwater environments as overlays in the Unitary Plan
- specifying the management response appropriate to different areas and types of indigenous biodiversity
- identifying appropriate restoration methods and outcomes.

A policy also supports Mana Whenua involvement in the management and use of indigenous biodiversity.

A precautionary approach is to be adopted in relation to the effects of climate change on indigenous biodiversity, and when considering potential adverse affects on coastal biodiversity values because of the uncertainty inherent for both of these situations.

The RPS objectives and policies in the Unitary Plan are similar to those in the operative RPS, although they are more directive about the identification and management of these areas as the management of biodiversity is considered to be appropriately dealt with at the RPS level, both because of its regional significance, and to ensure integrated management.

Objectives, policies and methods for SEAs on land or in freshwater environments were different across Auckland, and although many of the provisions included in the Unitary Plan are similar to those in various of the legacy planning documents, their consistent application means overall there is a change in the way that biodiversity is managed. The criteria and methodology for identifying areas as 'significant' has been updated and applied consistently across Auckland.

Overall, there are more SEAs identified in the proposed Unitary Plan than in legacy plans, Terrestrial and freshwater SEAs have increased from ~11% of the region in legacy plans to ~17% in the unitary plan – an ~ 60% increase. Marine SEAs have not increased significantly in their extent, although they have been reviewed and amended in light of new information.

Rules associated with the land and freshwater based SEAs generally require consent for vegetation removal, except in some specified circumstances, including allowing for cleared areas around dwellings and buildings to be established and maintained. There are also more stringent standards for land disturbing activities and impervious surfaces than in less sensitive environments. Subdivision incentives have been provided in some rural areas for the legal protection and enhancement of SEAs, in the form of a Transferable Development Right.

Provisions applying to the CMA are generally similar to those in the operative Coastal Plan. Rules for the SEAs in marine environments generally require consent for activities that will damage the values of the SEAs, while providing for appropriate activities.

The Coastal Plan CPAs are largely equivalent to the SEA Marine 1 and 2 areas, although they have been reviewed and augmented to some limited extent. One significant difference between the CPAs and the SEA Ms is that the former included areas that were important for their geological values, and these are now not included with SEA Ms (and are now identified as Outstanding Natural Features.)

#### **1.10 Reference to other Evaluations**

This section 32 report should be read in conjunction with the following evaluations:

- 2.17: Maori Land
- 2.18: Maori and natural resources
- 2.19: Landscapes
- 2.22: Future Urban zone
- 2.25: Freshwater
- 2.26: Flooding
- 2.27: Intermittent streams and riparian margins
- 2.28: Natural hazards
- 2.29: Stock access
- 2.31: Earthworks
- 2.32: Mangroves
- 2.35: Rural subdivision
- 2.36: Reserve management plans
- 2.48: Trees in streets
- 2.49 Genetically modified organisms

## 2 Objectives, Policies and Rules

### 2.1 Objectives

*Part 2 Regional Policy Statement*

*Objective 1 of the RPS – Biodiversity section - Areas of significant indigenous biodiversity in terrestrial, freshwater, and coastal environments are protected from the adverse effects of subdivision, use and development.*

*Objective 2 of the RPS – Biodiversity section - Indigenous biodiversity is maintained through protection and restoration in areas where ecological values are degraded, or where development is occurring.*

Appropriateness of the Objective(s)

**Relevance** – the purpose of the RMA, as set out in Part 2(5), is to “promote the sustainable management of natural and physical resources”. Natural and physical resources include all forms of plants and animals (whether native to New Zealand or introduced), ecosystems and genotypes.

“Sustainable management means managing the use, development and protection of natural and physical resources” and also includes “safeguarding the life-supporting capacity of...ecosystems”. Significant ecological areas form an important part of overall natural and physical resources of the Auckland environment,, and their protection from the adverse effects of subdivision, use and development has been set out in the above objectives.

Section 6 sets out matters of national importance. 6(c) specifically relates to SEAs as it recognises “the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna” as a matter of national importance.

Section 7(d) also recognises the “intrinsic values of ecosystems” as another matter that shall have particular regard.

Sections 30 and 31 set out the functions of regional and district councils (respectively). As a unitary authority, the council must fulfil all of the functions set out in these sections. These include:

- The control of the use of land for the purpose of maintaining and enhancing ecosystems in water bodies and coastal water (s30(1)(c)(iii)(a))
- the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:(s30(1)(ga))
- the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of ....the maintenance of indigenous biological diversity: (s31(1)(b)(iii))

Identification and protection of significant biodiversity gives effect to the relevant provisions of part two, and will make a major contribution to the maintenance of indigenous biodiversity including in coastal environments. Management of effects on other areas of biodiversity, and the promotion of legal protection and restoration will also contribute to the achievement of part 2, and the fulfilment of the requirements of ss 30 and 31.

The proposed national policy statement on indigenous biodiversity directs the protection of significant indigenous biodiversity, and Objective 1 reinforces this requirement. (Note that the NPS does not apply to the coastal marine area, the direction for which is in the NZCPS.) Objective 2 is also relevant as the NPS explicitly recognises the contribution that all

remaining areas of indigenous vegetation make to the maintenance of indigenous biodiversity.

The Auckland Plan acknowledges that habitats and ecosystems must be protected and restored in order to maintain biodiversity. The Auckland Plan also sets out in Chapter 7 that “nature and people are inseparable” with relevant targets including:

- Ensure no regional extinctions of indigenous species and a reduction in the number of ‘Threatened’ or “At Risk” taxa from 2010 levels by 50% by 2040.
- Reduce the vulnerability of identified ecosystems by ensuring a 95% probability of each ecosystem type being in a viable state by 2040.

Auckland Plan Directives 7.5 also require council to identify and “Protect ecological areas, ecosystems and areas of significant biodiversity from inappropriate use and development, and contribute to restore and improve ecosystems and biodiversity”. The above objectives seek to implement these directives by protecting indigenous biodiversity.

The New Zealand Coastal Policy Statement includes reference to biodiversity and ecological aspects of the coastal environment, as set out (*inter alia*) in policy 11 “to protect indigenous biological diversity in the coastal environment...”

**Usefulness** - These objectives add value by providing a high level direction for the management of significant ecological areas. That is, to protect ‘significant indigenous biodiversity’ from the ‘adverse effects of subdivision, use and development’, as required by the Act. Objective 2 also by promotes the ‘protection and restoration’ of indigenous biodiversity generally, both in conjunction with new development, and through other restoration and protection mechanisms that are undertaken on public and private land. Protection and restoration is regarded as being of particular importance in landscapes where ecological values have been degraded. That is, where remaining indigenous ecosystems are highly fragmented and compromised by plant and animal pests.

The objectives are also useful as they are well aligned to directly implement the purpose of the Act, the proposed NPS and the Auckland Plan.

**Achievability** - The Council has the ability to implement the protection of significant indigenous biodiversity from the adverse effects of subdivision, use and development as directed by legislation, and to promote its restoration and enhancement through regulatory and non-regulatory methods. The community can also contribute to the achievement of the objectives through voluntary protection and restoration actions.

The Council also has statutory responsibilities for many activities in the CMA, and can enforce the regulatory provisions proposed for this area.

The principle method to achieve the protection of significant ecological areas is to identify these areas using criteria based on the NPS and schedule the areas in the Unitary Plan. Identifying these areas will enable council to better assess possible adverse effects from proposed land use activities as well as way to continue to protect them.

The more general protection and restoration of biodiversity can be achieved through consenting processes (for example incorporating natural areas into new development), actions undertaken by the Council and other agencies on public land, and restoration efforts undertaken by the community, including with the Council’s support.

**Reasonableness** - Aucklanders value their natural environment and significant social, economic and cultural gains are provided by indigenous biodiversity in Auckland. The



protection and restoration of biodiversity is expected by many groups within Auckland, and indeed New Zealand.

The approach is seen to be reasonable as it builds on approaches used by legacy Council.

**Legacy Issues** – While many of the legacy provisions are similar to each other and the proposed provisions in the Unitary Plan, they have been developed at different times and in isolation from each other (seven different councils, arbitrarily breaking up the region) which has resulted in an overall lack of consistency. Moreover, not all legacy plans addressed the protection of significant indigenous biodiversity through the identification of sites and/or had rules protecting these areas. The Unitary Plan is an opportunity to provide consistency and clarity to the community.

Ecological restoration and protection has been undertaken in Auckland for many years, and the objectives seek to consolidate and continue these efforts.

### **2.1.1 Policies**

Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the RPS – Biodiversity section - these policies contribute to achieving the objective in the following ways:

Policy 1 sets out the criteria for identifying significant ecological areas, which will contribute to the above objectives. The criteria include:

1. Representativeness
2. Stepping stones, buffers and migration pathways
3. Threat status and rarity
4. Uniqueness or distinctiveness
5. Diversity

Policy 2 sets out that other areas can also contribute significantly to biodiversity even if they are not identified as an SEA. This will contribute to the above objective by ensuring that all scales of biodiversity are protected.

Policies 3, 4 and 5 support the role of mana whenua in the identification and management of biodiversity, including as a cultural and food resource.

Policies 6 and 7 seek to manage the effects of activities on significant indigenous biodiversity by avoiding adverse effects in the first instance, requiring remediation then mitigation where effects cannot be avoided and requiring residual effects be offset through restoration and enhancement to achieve no net loss and preferably a net gain in biodiversity values. This policy will contribute to the above objective by ensuring that effects on biodiversity are avoided wherever possible.

Policy 8 provides guidance on what adverse effects on indigenous biodiversity are to be avoided, remedied, mitigated or offset. This will contribute to the above objective by setting how biodiversity can be protected and what it is being protected from, which is particularly important during assessment of consents.

Policy 9 sets out guidance on the reasonable use of land by allowing for minor activities such as vegetation trimming, a single dwelling per site and the establishment and maintenance of cleared areas around buildings. These types of activities are unlikely to cause adverse effects on biodiversity, which is to be avoided under the above objective. Additionally, explicit mention is made of the ability to continue existing lawful activities on land, to ensure that these are not inappropriately curtailed by the regional rules that are to be used.

Policies 10 and 11 set out specific activities that may threaten or damage significant ecological areas, including the movement or introduction of animal and plant pests as well as land disturbance activities. Policy 10 explicitly addresses the threat posed by Kauri die-back disease. These policies contribute to the above objective by identifying activities that must be avoided to ensure the ongoing protection of indigenous biodiversity.

Policy 12 sets out ways that indigenous biodiversity can be restored, maintained and legally protected during new use and development which contributes to the above objective. This includes using transferable development rights and linking biodiversity outcomes to other aspects of the development such as infrastructure and open space provision.

Policy 13 promotes proposals to enhance indigenous biodiversity values. This contributes to the above objective by including guidance on how restoration, maintenance and legal protection could happen e.g. through eradication, fencing etc.

Policies 14, 15, 16, 17 and 18 specifically relate to Coastal Marine areas (the CMA) , including in particular SEA Marine 1 and 2. Policy 14 sets out what adverse effects need to be avoided when undertaking any kind of use and development in the marine environment, with some particular reference to SEA Ms. Policy 15 seeks to avoid the cumulative adverse effects of use and development on SEA Ms. Policies 16 and 17 relate to structures in the SEA-Marine 1 area which are to be avoided unless for the purposes stated above or already lawfully exist. Policy 18 identifies activities which should be avoided, including livestock access to SEA Ms. These policies contribute directly to indigenous biodiversity within coastal environments which is to be protected from the adverse effects of use and development.

Policies 19, 20 and 21 specifically address the management of mangroves, and specify how and when mangroves should be removed, to ensure such removal does not impact significantly on, or improves biodiversity values.

Policy 22 sets out that a precautionary approach when assessing climate change and potential adverse effects to the coastal environment. Both of these issues are hard to manage and often little information may exist that can help to accurately measure the anticipated effects. This policy will contribute to the above objective as it will ensure that significant indigenous biodiversity will be protected even if little information is available through using the precautionary approach.

### **2.1.2 Rules and other methods**

The proposed provisions are summarised in 1.9 above. The rules proposed to be used are achievable, and fall within the statutory responsibilities of the Council. Effective implementation of existing rules (in legacy documents) has been achieved for many years – decades in some parts of Auckland – and the Council can continue this approach efficiently, using and adapting existing processes and practices. Efficiency is also promoted by identifying those areas which are considered the most significant and important, and hence with the strongest regulatory response.

### **2.1.3 Costs and Benefits of Proposed Policies and Rules**

There are costs associated with the implementation and enforcement of these provisions which fall on both the Council and landowners/resource users – i.e. are both public and private. The Council will not charge for assessing consents to clear vegetation within SEAs, meaning the costs fall to the wider community. However, applicants are still likely to have costs arising from any expert assessments, conditions of consent and any notification and consultation costs associated with development.

Although the presence of SEAs does not preclude all development, the plan's intention is that as much as possible development is directed away from these areas, which may lead to

opportunity costs from a reduction in development opportunities, although many SEAs are on land that is difficult and expensive to develop and/or is not suitable for rural activities. If adverse effects on biodiversity are unavoidable, the council may require appropriate remediation, mitigation or offsetting of these adverse effects, and there will be costs associated with such actions.

However, applications for consent to undertake works in SEAs are not numerous – for example, in Waitakere, with the most extensive existing (equivalent) SEAs, council records indicate only 17 consents were sought in the 2012-13 financial year for clearance of SEAs. In Rodney, there were only 14 consents for vegetation clearance (both within and outside (equivalent) SEAs). Although SEAs are more extensive in the Unitary Plan than in operative plans, this indicates that the provisions will not place a significant cost imposition on those landowners that do wish to seek development opportunities on land covered by SEAs. Moreover, there are likely to be less requirements for consent in some rural areas where current (operative) provisions have more extensive general vegetation protection provisions.

Benefits arising include environmental benefits related to a greater likelihood of Auckland's indigenous biodiversity being maintained and urban and rural environments which reflect the unique ecological character of Auckland.

Social and cultural values are also supported by healthy natural areas, as people appreciate the presence of such areas both for their intrinsic qualities, and for the specific functions they provide. Conversely, a lack of protection of these areas would be a cost to the wider community generally, through a reduction in the quality of indigenous biodiversity in Auckland.

Economic benefits include those arising from the ecosystem services afforded by indigenous biodiversity, such as improved water quality, carbon sequestration, erosion mitigation and improved landscape, character and amenity values. Ecosystem services can be of direct economic benefit, as 'green infrastructure', as well as improving the value of land through improved amenity, landscape and character values. 'Ecosystem services' have not been monetised, but are known to be significant.

Benefits, like costs, are both public and private, accruing to both the wider community, and to landowners and resource users. The provisions do have a significant public benefit to the people of Auckland, and the Council acknowledges this through the waiving of consent fees for clearance of terrestrial SEAs, and some provision of bonus subdivision to incentivise covenanting and restoration. Additionally, the Council has a non-regulatory incentives programme which supports those landowners who wish to engage in active conservation of their areas of biodiversity.

#### **2.1.4 Adequacy of Information and Risk of Not Acting**

It is considered there is sufficient information on which to base the proposed policies and methods. In particular, the Council has undertaken a comprehensive assessment to identify sites of ecological significance, according to a new set of criteria embodied in Policy 1. Additionally, opportunities for legal protection and restoration can be identified in conjunction with proposals for new development. Identification of SEAs also gives guidance as to where these actions are a priority.

### **3 Alternatives**

The proposed preferred alternative is discussed in 2.0 above. The status quo alternative is outlined in 1.5 above.

Alternatives are:

1. Status quo - Roll over of provisions, including only existing significant ecological areas.
2. Preferred - Review and roll over existing sites and provisions and carry out an assessment of new areas where biodiversity could be significant using the proposed Unitary Plan criteria. Augment regulatory responses with non-regulatory methods.
3. Non regulatory - Rely solely on other methods (non-regulatory e.g. incentives, legal covenanting etc) to protect indigenous biodiversity.

The table below discusses each alternative compared to the Proposed Alternative

	<b>Status Quo Alternative</b>	<b>Alternative 2 – Preferred</b>	<b>Alternative 3 – non-regulatory responses only</b>
	<p>Roll over existing sites without review or provision for identifying and protecting new areas of significant habitat or species. Retain the current range of provisions used by legacy Councils, including more comprehensive protection of natural areas outside SEAs in some districts (esp. Waitakere and Rodney).</p>	<p>Review and roll over existing sites and provisions and carry out an assessment of new areas where biodiversity could be significant using the proposed Unitary Plan criteria.</p> <p>Augment regulatory responses with non-regulatory methods.</p>	<p>Rely solely on other methods (non-regulatory e.g. incentives, legal covenanting etc) to protect indigenous biodiversity.</p>
Appropriateness	<p>This approach is not appropriate as it does not meet the purpose of the Unitary Plan which is to protect significant indigenous biodiversity from inappropriate effects and provide clarity and consistency to developers and investors.</p> <p>It is also not appropriate to continue this approach as it would be unfair for property owners in different parts of the region to have similar 'quality' indigenous habitat being governed by different rules and regulations. In particular, with significantly different degrees of restrictions on the clearance or damage to both SEAs and areas outside of SEAs.</p> <p>The identification and protection of significant ecological areas would be inadequate, and would result in ongoing loss and degradation of biodiversity values. Inconsistent approaches across Auckland will not contribute to the achievement of integrated management.</p>	<p>This approach is deemed to be appropriate as it is largely a roll over of existing provisions but it will provide clarity and consistency to the management of SEAs across the region. A combination of regulatory and non-regulatory responses sends an appropriate signal to the community about respective private and public responsibilities.</p>	<p>This approach is not appropriate as the RMA places significant importance on the protection of significant biodiversity and the maintenance of indigenous biodiversity, and to not identify and protect these sites in the Unitary Plan would contradict this. Non regulatory methods such as financial incentives and education can be effective methods but it is generally accepted that they work better in conjunction with regulatory methods.</p>
Effectiveness	<p>As this approach is simply rolling over the existing SEA sites and provisions, this approach would be effective at continuing what has already been achieved. However, as the criteria and methodology for identifying SEAs across the seven legacy councils varied, it would not be effective approach in terms of protecting ecological values across the region as a whole. Some of the most highly modified parts of the Auckland Region have the 'weakest' SEA equivalent provisions in operative plans, and continuation of these provisions would see the loss of important areas, and potentially reduce the biodiversity of Auckland</p> <p>The identification and protection of significant ecological areas would be inadequate, and would result in ongoing loss and degradation of biodiversity values. Would see the continuation of reasonably comprehensive protection of areas outside of SEAs in some parts of Auckland, which would contribute to the maintenance of indigenous biodiversity to some degree.</p>	<p>Development of a single set of ecological significance criteria, based on best practice, helps ensure that ecologically significant sites in Auckland are effectively identified and managed, This approach is effective as all known existing SEA sites across the region have been included, with an additional 6% of the region identified as ecologically significant. The effectiveness of this approach is also increased by the provisions which require a resource consent to clear indigenous vegetation in most circumstances, but allow for passive maintenance by landowners. Reduced protection of natural areas outside of SEAs in some parts of Auckland may lead to a reduction in biodiversity values in these areas, although this is considered to be outweighed by the benefits of increased identification of SEAs (with consequent increased certainty to landowners, resource users and the wider community).</p> <p>Combining regulatory and non-regulatory methods is recognised as the most effective way to promote appropriate biodiversity management.</p>	<p>Non regulatory methods can be an effective approach but the uptake of this approach can not be predicted meaning its effectiveness could be limited. In particular, development pressures are likely to mean the loss or degradation of many SEAs as incentives to protect and enhance an SEA site are unlikely to equal potential private profits to an individual from developing the site. The effectiveness of this approach is also limited as SEAs are not identified and protected in the plan, hindering effective monitoring of the state of the resource..</p>
Efficiency	<ul style="list-style-type: none"> <li>In the short term this approach would be the most resource efficient as all the information is already available.</li> <li>The long run logistic efficiency of maintaining seven different SEA approaches/ sets of rules across one region will probably lead to some extra time/ confusion in the consenting process</li> </ul>	<ul style="list-style-type: none"> <li>Identification of a more comprehensive suite of significant ecological areas requires effort, but the Unitary Plan has identified those sites in Auckland which are known to meet the criteria developed. This helps ensure that the protection of significant biodiversity, and the overall maintenance of biodiversity occurs in those areas with the greatest potential to contribute to these outcomes.</li> <li>This approach will require a resource consent if indigenous vegetation within an SEA is to be cleared. This is an efficient way for Council to assess clearing vegetation and the SEA in question, but it could be inefficient from the perspective of a landowner as getting a resource consent</li> </ul>	<ul style="list-style-type: none"> <li>This approach is not likely to be efficient as the costs of this approach outweigh the benefits. This approach is also likely to be very expensive for Council into the future as funding would need to be provided.</li> <li>It is also not an efficient approach as significant resources have already been put into SEAs by legacy councils, so to not include this information in the Unitary Plan is inefficient of legacy approaches.</li> </ul>

		<ul style="list-style-type: none"> <li>• Identification of significant ecological areas helps in the prioritisation of sites for active management, including non-regulatory incentives from the Council and other agencies.</li> </ul>	
Costs	<ul style="list-style-type: none"> <li>• Attracts the same costs to many landowners and the Council as the preferred approach.</li> <li>• Approaches across existing plans are similar in some instances but have been developed at different times and in isolation, resulting in an overall lack of consistency in the methods used and the areas identified.</li> <li>• Approaches use different criteria and methodologies for identifying areas, which means that SEAs across the region have not been identified consistently i.e. for different reasons. Not all plans included criteria or identified areas in a comprehensive fashion.</li> <li>• Ecologically significant sites across Auckland may not be protected i.e. they may be considered significant under the Unitary plan but not under the legacy approach</li> <li>• The inconsistency of this approach would not achieve the purpose of the Unitary Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Increased protection of SEAs (number of sites and the provisions) could cause adverse landowner reaction which could be counter productive to long term conservation interests if landowners wish to develop their site and it has an SEA on it, the Unitary plan may conflict with their aspirations and reduce development potential – an extra 6% of the region is now covered by SEAs which could mean an increase in lost development potential.</li> <li>• In recognition of the public good component of protecting sites with biodiversity values, the Council has undertaken not to charge for considering resource consents to clear vegetation in SEA areas. This means the cost will fall to Council and hence the wider community associated with this.</li> <li>• Landowners and resource users will still be liable for the costs of acquiring any further information required to assess an application, and for any works required as condition of consent.</li> <li>• Provision of any incentives to landowners to support regulatory provisions will cost the Council.</li> </ul>	<ul style="list-style-type: none"> <li>• It is thought that non-regulatory methods are most effective when matched with a regulatory method. This is because on their own they do not deter damage or destruction of significant areas.</li> <li>• Ecologically significant sites across Auckland would not be protected from adverse effects</li> <li>• Use of non regulatory methods only would likely be prohibitively expensive for Council to provide in the long run</li> </ul>
Benefits	<ul style="list-style-type: none"> <li>• Attracts many of the same benefits as the preferred approach, although at a reduced scale and with less likelihood that indigenous biodiversity will be maintained and significant areas protected.</li> <li>• This approach would be relatively easy to undertake as the information is already available within legacy plans</li> <li>• Rolling over the existing sites and provisions would still result in some good ecological benefits as sites are still identified and can therefore be protected and would still require a consent to clear</li> </ul>	<ul style="list-style-type: none"> <li>• It is unlikely that the SEA sites identified are currently being used actively e.g. for farming purposes, but any existing lawful activities on land can continue e.g. production forests are not included as SEAs, and existing uses are explicitly provided for.</li> <li>• Identifying significant areas in the plan provides a high degree of certainty as to where the provisions that relate to biodiversity apply</li> <li>• Contributes to efficient decision making and provides greater certainty to landowners and applicants</li> <li>• This approach plugs gaps in the existing coverage of significant ecological areas in Auckland and helps ensure the ongoing maintenance of indigenous biodiversity.</li> <li>• Enables landowners with significant sites to be prioritised for non regulatory methods like education and incentives.</li> <li>• Some landowners will also be eligible for a subdivision bonus in exchange for the protection and restoration of significant ecological areas, through a Tradeable Development Right mechanism.</li> <li>• Likely that an additional ~6% of the region will be covered by significant ecological areas under this approach which would take the total coverage of SEAs in Auckland to 17%, meaning that there are better ecological outcomes.</li> <li>• Requiring a resource consent to clear significant ecological areas requires an assessment of ecological significance to be undertaken. This could lead to a better understanding of the SEA and the best course of option for the application.</li> <li>• A regulatory approach provides for monitoring information to be collected on the effects of development on biodiversity.</li> <li>• This approach is one of passive management in that landowners with an SEA on their property are not required to actively manage the site, (except as a condition of</li> </ul>	<ul style="list-style-type: none"> <li>• Subsidies e.g. fencing and other legal protection can be effective in protecting significant ecological areas</li> <li>• Subsidies for physical protection e.g. fencing and pest control can also have significant ecological benefits</li> <li>• Ability for landowners to have more development options for their land as this approach does not place regulatory constraints on landowners</li> </ul>

		<ul style="list-style-type: none"> <li>• This approach does provide for reasonable amounts of clearance including maintenance of existing tracks, removal of pest species, establishment and maintenance of cleared areas around dwellings and buildings, and the continuation of any existing legal activities.</li> <li>• Improved ecological character can add value to new development.</li> <li>• In recognition of the public good component of protecting sites with biodiversity values, the Council has undertaken not to charge for considering resource consents to clear vegetation in SEA areas.</li> </ul>	
Risks	<p>A risk of this approach is that no new sites would be included; meaning areas of known ecological significance will not be included and therefore would not be protected and could be cleared or damaged.</p> <p>This could open the plan to later challenge by central government; NGO's or through the Environment Court process as being too permissive and/or not offering adequate protection for some of the regions significant indigenous biodiversity, and not meeting the requirements of the RMA.</p> <p>There a risk of operational inefficiencies with this approach as council would have to maintain 7 different approaches across the region; this could lead to ecological losses.</p>	<p>As this approach is looking to make the approach for SEAs consistent across the region, there is a risk that landowners may not want to depart from the current approach that is applied to their land and there will be public discord associated with these changes.</p> <p>There is also a risk with this approach that landowners will not support having to get resource consents to clear indigenous vegetation on their land or that they may be restricted from undertaking certain economically productive activities and/or illegally clear significant habitat.</p> <p>The Council may not be able to provide the level of non-regulatory support sought by landowners.</p>	<p>It is likely that there would be a loss of biodiversity through clearance if this approach is taken.</p> <p>The Council would not be able to provide the level of incentives required to ensure protection of significant biodiversity/maintenance of indigenous biodiversity.</p> <p>A lack of regulation would make it hard for SEAs to be monitored over time.</p> <p>Plan is very likely to be subject to challenge by central NGO's or through the Environment Court process as being too permissive of development and not offering adequate protection for some of the regions significant indigenous biodiversity</p>

## **4 Conclusion**

Based on the above discussion, the following conclusions are drawn.

The RMA specifies the protection of significant areas of indigenous vegetation and fauna habitat as a matter of national importance in section 6, as well as tasking councils with the role of maintaining indigenous biodiversity. Indigenous biodiversity provides numerous social, ecological and cultural benefits which are hard to replace.

The significant ecological areas approach as outlined above has been drafted for the purpose of meeting the purpose of the RMA. This approach will see all existing SEA sites in Auckland brought into the Unitary Plan under a consistent set of criteria. An additional 6% of the land area of the region would be identified as ecologically significant, bringing the coverage of SEAs to 17% of the Auckland region. Identification of these areas and less reliance on more general vegetation protection provides greater certainty to landowners, resource users, the Council and the wider community about where and why areas are to be protected.

Promoting the restoration and enhancement of natural areas contributes to the maintenance of indigenous biodiversity.

A combination of a regulatory and non-regulatory approach will provide the greatest certainty that indigenous biodiversity will be maintained, and that landowners and resource users will be able to actively engage in the protection and restoration of natural areas. The regulatory requirements in relation to biodiversity are considered to strike an appropriate balance between protection of indigenous biodiversity and reasonable use of land, and to appropriately distribute private and public benefits and costs.

The preferred approach, as set out above, will provide consistency and clarity of rules to landowners in Auckland as well as providing council with the ability to monitor sites in the future, prioritise areas for active management (including through incentives to landowners), require assessments for consents to clear indigenous vegetation and appropriately require the avoidance, remediation, mitigation and offsetting of adverse effects.

## **5 Record of Development of Provisions**

### **5.1 Information and Analysis**

- Criteria for the identification of significant ecological areas in Auckland– John Sawyer and R Stanley, Auckland Council. Draft report 15 August 2012. Report reviewing approaches to significance assessment used nationwide and presenting the 5 criteria used in the development of Auckland Council’s Unitary Plan. (Appendix 3.11.1)
- Review of Auckland Council’s proposed Ecological Significance Criteria. Susan Walker, Landcare Research. September 2012. (Appendix 3.11.2)
- Threatened and unique biodiversity assets of Auckland (draft 2013). by John Sawyer and Abigail Forbes (Draft report August 2013). Report on the threatened species and ecosystems of Auckland and other significant elements including type localities, endemic and near endemic species. (Appendix 3.11.3)
- Indigenous terrestrial and freshwater ecosystems of Auckland by Nicholas Singers, Brenda Osborne, Karlene Hill and John Sawyer (Edited by Jane Connor) (Draft



- Spatial extent of Auckland's indigenous terrestrial ecosystems (2013) Map. Published by Auckland Council. (Appendix 3.11.5)
- Auckland's Indigenous Biodiversity Strategy (2012) published by Auckland Council (Appendix 3.11.6)
- Natural Environment Issues and Approaches Paper (2012). Auckland Council Paper for Political Working Party consideration (Appendix 3.0.8)
- State of the Auckland Region Report 2010. Chapter 4.4 – State of the Environment and Biodiversity – Marine (Appendix 3.11.7)
- State of the Auckland Region Report 2010. Chapter 4.5 – State of the Environment and Biodiversity – Terrestrial biodiversity (Appendix 3.11.8)
- State of the Auckland Region Report 2010. Chapter 4.3 – State of the Environment and Biodiversity – Freshwater biodiversity (3 parts)( Appendix 3.11.9)NZ Biodiversity Strategy (2000). Published by central government agencies.
- The Auckland Plan
- New Zealand Coastal Policy Statement
- Proposed National Policy Statement on Indigenous Biodiversity
- Resource Management Act 1991
- Waitakere Ranges Heritage Area Act 2008
- Hauraki Gulf Marine Park Act 2000

## **5.2 Consultation Undertaken**

In September 2011 Auckland Council contacted approximately 2500 landowners to seek permission to undertake ecological surveys in areas identified as potentially significant, or to audit a proportion of areas previously identified as significant in legacy council documents. No surveys were conducted without landowner permission. Discussions were held with staff from both neighbouring regional councils about the proposed approach in late 2012 and mid 2013.

In March 2013, as part of the release of the draft plan Unitary Plan, the first draft of the Significant Ecological Area (SEA) overlay was published on-line and in hard copy and all affected landowners were advised directly in writing and invited to comment on the maps and relevant provisions. Additional survey work and analysis was then undertaken in response to feedback. Input was sought on the proposed approach to SEAs from stakeholders, including rural, industry and environmental groups, the Department of Conservation, and various ecological experts around the country through meetings and workshops.

Approximately 6% of all submissions received to the Unitary Plan related to SEAs.

After the draft Unitary Plan was released, several community meetings were held to discuss Significant Ecological Areas and the biodiversity provisions of the plan, along with further consultation with the stakeholders identified above. Additionally, a meeting was held with key submitters (including landowners) to discuss issues raised in submissions and seek consensus on appropriate changes in light of those issues.

Numerous minor amendments were made to the SEA overlay in response to issues raised in submission (e.g. driveways or buildings included within the SEA), along with amendments to the rules to make them less restrictive – e.g. removal of restrictions on the removal of dead wood, and increased ability to establish and maintain cleared areas around dwellings and buildings.

### **5.3 Decision-Making**

- PWP endorsed recommended approach to SEAs but requested information on SEAs sooner than October – 2012/07/26
- PWP endorsed mapping of SEAs (existing sites and investigation layer) and requested briefing for absent councillors to address confidentiality of information – 2012/08/02
- PWP confirmed that the UP team can continue to work in the directions outlined in the presentation on natural environment overlays, taking into account the specific points raised in the discussion (see bullet points under Directions heading), including ensuring controls applying to urban SEAs do not restrict development that enhances amenity or prevent restoration and some removal of mangroves – 2012/11/09
- PWP - The report on the key issues/changes to provisions was noted for further discussion at the 11 February workshop. Crs Coney and Walker recorded their opposition to the proposed changes to vegetation controls in rural areas and to allow mangrove removal in SEAs. – 2013/02/08
- PWP confirmed that the proposed pilot to send information to non-SEA landowners should not proceed during the Unitary Plan engagement process. Confirmed that the information should be sent with the directly affected letters, put on the website and made available in hard copy at events in rural areas, and local board offices. – 2013/02/26
- Auckland Plan Committee – Unitary Plan Direction setting 2013/22/07