

Planning & Strategy Committee
30 July 2020

Report for Agenda Item | Rīpoata moto e Rāraki take 1

Department: Planning & Development

Title | Taitara Update on landowner communication for Indigenous Vegetation and Biodiversity Protection Rules in the Proposed District Plan

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 This report seeks approval to contact landowners whose properties have land identified as a Significant Natural Area or may have indigenous vegetation protected by rules in the district plan, to inform them of changes to their obligations as custodians of biodiversity in the district.

RECOMMENDATION | NGĀ TŪTOHUNGA

- 2 That the Planning & Strategy Committee:
 1. **Note** the contents of this report and;
 2. **Approve** Council officers to contact owners of land containing Significant Natural Areas regarding the new obligations under the Proposed District Plan.

Prepared by:



Katie Russell
Policy Planner

16/07/2020

Reviewed and Authorised by:



Tony Avery
General Manager, Planning
& Development
21/07/2020

CONTEXT | HOROPAKI

- 3 The natural beauty and biodiversity of the region contributes to the economic, and social well-being of our community and district. The Proposed District Plan (**PDP**) seeks to protect indigenous vegetation and biodiversity and identifies and schedules areas of particular significance, known as Significant Natural Areas (**SNAs**). This is a requirement of the Council as part of its functions under section 31 of the Resource Management Act.
- 4 These protections are set out in Chapter 33 Indigenous Vegetation and Biodiversity of the PDP, the review of which has recently been concluded after the following steps:
 - Rules relating to SNAs notified August 2015 with immediate legal effect, Independent Hearing Panel decisions issued in May 2018 and subsequent appeals to the Environment Court by multiple parties;
 - Consent Order issued by the Environment Court on 25 March 2020 with immediate legal effect. This is the current chapter under which decisions are being made;
 - Changes resulting from the Consent Order presented to the appeals subcommittee on 30 April 2020.
- 5 Chapter 33 Indigenous Vegetation and Biodiversity should provide surety to district plan users. However, the rules are somewhat complex and the changes resulting from the Consent Order are significant enough that affected landowners should be notified of the change in their obligations. There are up to 17,796 potentially affected landowners.
- 6 This report seeks approval to inform landowners of the changes to their obligations as custodians of biodiversity in the district, and to provide public information about Council's role in protecting our indigenous ecosystems.
- 7 Fostering good-will and cooperation between Council and landowners in addressing these matters is likely to be more sustainable and effective than any uplift in Council enforcement of rules in the PDP. Biodiversity enhancement and protection initiatives have not been a strong feature of council work programmes at a territorial or regional level in the past and for the immediate future landowners it is envisaged that landowners will continue to be the principle guardians of our indigenous vegetation and biodiversity.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Key Changes to landowner obligations

- 8 Although the Consent Order did not amend the spatial extent of any SNAs, it altered what is permitted within SNAs. In particular:
 - it reduced the permitted clearance within an SNA from 50m² to 25m² in any five year period, and
 - amended the activity status associated with any clearance from discretionary to a non-complying activity.
- 9 Another key change significantly reduces the permitted clearance for other indigenous vegetation outside of SNAs from what was permitted in the notified plan. The implication

for this change is that there are landowners who in the past have not been obligated by the district plan to protect indigenous vegetation, who are now required to do so.

- 10 Advising landowners of this potentially significant shift in the way in which indigenous biodiversity is managed on their land is important. There are three groups of affected landowners:

Group A: SNA owners of whom there are approximately **321**. These landowners will likely be aware of some level of obligation relative to the SNA on the property, but may not be aware of the recent changes.

Group B: Landowners with holdings greater than 4,000 m², of whom there are approximately **13,800**. These landowners will be unlikely to be aware of the recent changes and what are possibly new obligations as a result of the changes.

Group C: Landowners whose land falls within a Threatened Environment Classification (used in the PDP to identify areas under ecological risk), of whom there are approximately **17,796**¹. These landowners are very likely to be unaware of the recent changes and their new obligations.

- 11 To help communicate the new rules, information sheets and letters to landowners are being drafted to set out the expectations of Council in reference to indigenous biodiversity and SNA management in a way that focus on information sharing, acknowledging the role that landowners play in fostering indigenous vegetation and biodiversity.
- 12 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:
- 13 **Option 1** Inform SNA landowners (Group A) of the changes to obligations under the PDP through a physical letter and information sheet mail out. **In addition**, inform the general public of the new obligations for vegetation management under the PDP through a press release and social media notices, and information on the Council website

Advantages:

- 14 This will proactively provide targeted SNA landowners with information on recent changes to their legal obligations under the PDP. The letters are a timely reminder of the rules and obligations in place, and may also assist any new landowners who may not have been involved in consultation as part of the identification of the SNA on their property prior to notification of the Proposed District Plan.

¹ The Threatened Environment Classification or TEC is developed by Landcare Research to help identify places in New Zealand in which the terrestrial indigenous ecosystem, habitat, and community types are both much reduced and poorly protected nationally. It is used in the PDP to aid in identifying ecosystems at risk as a layer in the maps. These can be found in Chapter 33 of the PDP <https://www.qldc.govt.nz/media/puwdbtq/pdp-chapter-33-indigenous-vegetation-biodiversity-april-2020.pdf>

- 15 Targeted letters to individual SNA landowners is considered effective and efficient given that they are a discrete group.
- 16 Should assist in developing a culture of protection by consensus and could save Council from having to 'educate by enforcement' which is likely to be significantly more costly and time consuming.
- 17 This option is less costly than options 2 and 3, in that sending mail outs to owners of SNAs will involve mailing correspondence to only 321 landowners.

Disadvantages:

- 18 Most SNA landowners are likely to already be aware of the existence and importance of SNAs on their land, so there may be limited benefit in notifying many of these persons.
 - 19 There is a risk of persons carrying out illegal clearance activities to avoid having their land subject to protective district plan rules, whether or not Council communicate what the rules are. Publicising the extent of the current rules may elevate this risk but it may well reduce it also.
 - 20 This option is more expensive than option 2.
 - 21 Not every affected landowner is being directly informed, which may lead to difficulty in monitoring and enforcement over time.
- 22 Option 2 Inform the public of the new obligations through Council publicity channels including the website, a press release, and social media and newspaper notices.

Advantages:

- 23 This will provide the general public with information on recent changes to rules managing biodiversity under the PDP who could otherwise be unaware of the changes to the rules.
- 24 As above, could assist in developing a culture of protection by consensus and could save Council from having to 'educate by enforcement' which is likely to be significantly more costly and time consuming.

Disadvantages:

- 25 As above, not every affected landowner is being directly informed, which may lead to difficulty in monitoring and enforcement over time.
- 26 Option 3 Inform **all** affected landowners (Groups A, B and C) of the new obligations for vegetation management under the PDP through a physical letter and information sheet mail out. **In addition**, utilise Council publicity channels including the website, a press release, and social media and newspaper notices.

Advantages:

- 27 Will proactively target owners of land identified as SNA or protected indigenous vegetation with information on recent changes to their legal obligations under the PDP.
- 28 As above, could assist in developing a culture of protection by consensus and could save Council from having to 'educate by enforcement' which is likely to be significantly more costly and time consuming.

Disadvantages

- 29 This is the most expensive option, with over 17,000 affected landowners.
- 30 This option could likely result in a negative or confused public response given the large number of potentially affected land holdings. Not every piece of land identified will actually have ecosystems of concern so directly contacting all landowners potentially affected is potentially an inefficient use of public funds.
- 31 **Advice:** This report recommends **Option 1** for addressing the matter because it provides both notice of new obligations to specific landowners and seeks to draw in other owners of protected indigenous vegetation and promote the outcome of greater protection. It also provides information to the general public about how indigenous biodiversity is being managed in the district.
- 32 Providing information of legislated changes to management obligations in relation to biodiversity on private land in the district is essential. This letter, advice note and online notices serve a dual purpose in this regard: providing notice, as well as taking the opportunity to educate. The recommended approach seeks to avoid alienation of landowners (which is likely to be counterproductive) and instead focuses on information sharing and encouragement.
- 33 The above initiative is a worthwhile starting point, however successful protection and enhancement of indigenous vegetation and biodiversity will ultimately require sustained investment and partnership initiatives at a range of different levels of government, and involvement of landowners and the wider community.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 34 This matter is of [low] significance, as determined by reference to the [Council's Significance and Engagement Policy](#) because it relates to a discrete group of landowners, a portion of whom have had prior experience working with Council on SNA matters.
- 35 The persons who are affected by or interested in this matter are residents of the district, and in particular landowners with SNAs or indigenous biodiversity.

36 This work is an important but discrete piece of consultation maintaining open channels of communication regarding biodiversity of the district, and the changes to landowner obligations in this shared work.

> MĀORI CONSULTATION | IWI RŪNANGA

37 The Council has consulted with iwi through the PDP process regarding the significance of biodiversity assets in the district. Specific consultation on this discrete topic has not been undertaken.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

38 This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK00031 - Ineffective management and governance over legislative compliance of the district within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.

39 The approval of the recommended option will support the Council by allowing us to retain the risk at its current level. This shall be achieved by continuing to inform landowners of their obligations for ongoing security of the biodiversity assets they hold.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

40 There are no financial implications beyond material preparation, printing and mailing costs.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

41 The following Council policies, strategies and bylaws were considered:

- Vision Beyond 2050
- The QLDC Proposed District Plan
- The Ten Year Plan/Annual Plan
- The Significance and Engagement Policy

42 The recommended option is consistent with the principles set out in the named policy/policies.

43 This matter is included in the Ten Year Plan/Annual Plan. The outcomes supported are:

- ‘a responsive organisation,’ and;
- ‘world class landscapes are protected’

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

44 No legal advice has been sought.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

45 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by assisting in interpreting changes to the PDP which could have a material impact on affected landowners.
- Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.