

NATURAL CHARACTER

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1 Scope of Report

- [1] This Recommendation Report relates to the Natural Character chapter of the PDP and contains the Hearing Panel's recommendations to Council on the submissions and further submissions received on that chapter.
- [2] The Hearing Panel members for the Natural Character Zone chapter were:
- Yvette Couch-Lewis
 - Malcolm Lyall
 - Gary Rae (Chair)
 - Andrew Willis
- [3] The initial Section 42A Report and the end of hearing Section 42A Report (Reply Report) for this topic were:
- Natural Character chapter, March 2022, Mark Geddes
 - Natural Character chapter, 8 July 2022, Mark Geddes
- [4] The above reports were also informed by technical information provided by Mr Paul Smith, Rough Milne Mitchell Landscape Architects.
- [5] Prior to the hearing the reporting officer also provided a report entitled 'Officer's Response to Questions from The Hearings Panel', dated 19 May 2022.
- [6] The Hearing Panel's recommended amendments to the notified provisions of the Natural Character chapter are set out in Appendix 1. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.
- [7] We note that some of the numbering of individual clauses in the rule and rule requirement provisions will need to be consequentially amended and not all such amendments are shown in Appendix 1. We understand that will occur in the amended version of the entire PDP that will accompany the release of all of the Recommendation Reports.
- [8] Readers should also note that we have, at their request, amended all references to 'Trustpower' to 'Manawa Energy'.
- [9] Further submitters are not listed in the tables in this Recommendation Report because further submissions are either accepted or rejected in conformance with our recommendations on the original submissions to which they relate.

2 Hearing and Submitters Heard

- [10] The hearing for the Natural Character chapter was held on Monday 30 May 2022. The submitters who appeared at the hearing (either in person or via Zoom) are listed below, together with an identification of whether they were an original submitter, a further submitter, or both.

| Sub # | Submitter | Original | Further |
|----------|---|----------|---------|
| DPR-0212 | Ellesmere Sustainable Agriculture Incorporated (ESAI) | ✓ | ✓ |
| DPR-0353 | Horticulture New Zealand | ✓ | ✓ |

| Sub # | Submitter | Original | Further |
|----------|--|----------|---------|
| DPR-0372 | Dairy Holdings Limited | ✓ | ✓ |
| DPR-0422 | Federated Farmers of NZ – North Canterbury | ✓ | ✓ |
| DPR-0441 | Manawa Energy Ltd | ✓ | ✓ |

[11] Some of the submitters had expert witnesses appear on their behalf. The witnesses we heard from are listed in Appendix 2. Tabled evidence we received is also listed in Appendix 2. Copies of all evidence (expert and non-expert) received are held by the Council. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report.

[12] We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether they were represented by expert witnesses.

3 Sub-topic Recommendations

[13] In this part of the Recommendation Report we assess the submissions by sub-topic, using the same headings as the initial Section 42A Report.

3.1 Overview

[14] For the following submitter and their submission point on this provision we adopt the recommendations and reasons of the Section 42A Report author, including in the Reply Report.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0407 | Forest & Bird | 039 |

[15] The submitter requested that reference is made to ‘natural character and climate change’ in the Overview. We agree with the Section 42A report that climate change is not a matter that is directly caused by new development but is nevertheless relevant in that new development can worsen the effects of climate change on natural character. Accordingly, we accept that an amendment to the NATC-Overview is appropriate as recommended in the Section 42A Report.

[16] We do not consider this amendment, which is to the Overview, requires a s32AA RMA evaluation.

3.2 Objectives

3.2.1 NATC-01

[17] For the following submitters and their submission points, we largely accept the recommendations and reasons of the Section 42A Report author, but have not adopted all the recommended amendments, as explained further below.

| Sub # | Submitter | Submission Point |
|----------|---------------|------------------|
| DPR-0260 | CRC | 105 |
| DPR-0353 | HortNZ | 153 |
| DPR-0372 | DHL | 062 |
| DPR-0390 | RIL | 049 |
| DPR-0422 | NCFF | 156 |
| DPR-0427 | DoC | 043 |
| DPR-0441 | Manawa Energy | 114 |

- [18] In response to NCFF's submission point we accept the evidence in the Section 42A report that it is not necessary or appropriate to delete NATC-O1 because of minor areas of overlap with the Canterbury Land and Water Regional Plan (LWRP). Dr Hume's statement did not provide any evidence on this part of NCFF's submission.
- [19] In response to Manawa Energy's submission point, we do not accept that NATC-O1 requires amendment to recognise the functional needs of regionally significant infrastructure to locate in the margins of waterbodies. We accept the Section 42A Report's advice that this is already recognised in EI-P1. We agree with the Section 42A author that the amendment requested by the submitter would in essence alter the focus of the chapter and put the location of infrastructure in these areas on an equal footing to the objective of preserving natural character¹.
- [20] However, to address this submission and to provide better integration between the EI and NATC chapters, we have recommended some amendments to the relevant policy NATC-P1 to provide suitable acknowledgement for important infrastructure that may have a functional or operational need to locate in the margins of surface water bodies, and to specify what the relevant considerations are. We have also recommended an amendment to the Energy and Infrastructure chapter (to EI-P2) to include reference to 'natural character areas'.
- [21] We do not accept the Section 42A report author's recommendation to amend the 'How the Plan Works' section, as we consider that is unnecessary. Each chapter contains a 'Note for Plan Users' and we note that Clause 4 of the 'Note for Plan Users' in the Energy and Infrastructure (EI) chapter states that where an infrastructure activity is located within an overlay, the associated objectives and policies from the relevant chapter for that overlay also apply when assessing an application for resource consent. Accordingly, the objectives and policies of both the EI and NATC chapter must be considered but are only considered when directed by the EI chapter. Therefore, we do not consider that any further clarity is required on how the Energy and Infrastructure chapter and the NATC chapter work together.
- [22] We note that an amendment is recommended to NATC-O1 as a result of another submission point addressed in section 3.6 of this Recommendation Report.

3.2.2 NATC-O2

- [23] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

| Sub # | Submitter | Submission Points |
|----------|-----------|-------------------|
| DPR-0260 | CRC | 106 |
| DPR-0353 | HortNZ | 154 |
| DPR-0372 | DHL | 063 |
| DPR-0390 | RIL | 050 |
| DPR-0422 | NCFF | 157 |

- [24] All of the submitters, with the exception of NCFF, supported NATC-O2 as notified. The issue of the provisions overlapping with the LWRP has been addressed for NATC-O1 above. No evidence was provided by the submitter on this point.

¹ Reply Report paragraph 2.85

3.3 Policies

3.3.1 NATC-P1

- [25] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author, including in the Reply Report.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0260 | CRC | 107 |
| DPR-0353 | HortNZ | 155 |
| DPR-0372 | DHL | 064 |
| DPR-0390 | RIL | 051 |
| DPR-0407 | Forest & Bird | 040 |
| DPR-0422 | NCFF | 158 |
| DPR-0427 | DoC | 044 |
| DPR-0441 | Manawa Energy | 115 |
| DPR-0446 | Transpower | 091 |

- [26] In specific response to some of the NCFF submission points, we accept the evidence in the Section 42A report that NATC-P1.1 should not be transferred to the SASM chapter; and ‘Cultural values’ should not be deleted from NATC-P1.4. We note that Dr Hume², in evidence for NCFF, said that *“Federated Farmers is happy with the recommendation of the reporting officer to reject our submission on NATC-P1.1 and retain that policy section in its current location”*.
- [27] We accept the Section 42A report’s recommendation to delete ‘requiring appropriate setbacks’ from NATC-P1.2 in response to NCFF’s request, with modified wording, as those words would have the effect of foreclosing other methods of preserving natural character. The removal of ‘plant and animal pests’ from NATC-P1.4 is also accepted for the reasons given, noting that the Reply Report has confirmed that removal of plant pests are not addressed by the NATC rules and are therefore classified as a permitted activity.
- [28] The Reply Report does, in response to planning evidence from Ms Calland for Manawa Energy, recommend an additional clause for NATC-P1, and an amendment to an associated EI Policy (EI-P2). This provides acknowledgement that important infrastructure can have a functional need or operational need to locate in the margins of surface water bodies and sets out the factors that are then to be considered. We accept these changes are appropriate, and that no changes are required to NATC-O1, for the reasons provided in the Reply Report prompted by Question 20 from the Panel³. We consider this will address the issues of integration between the EI and NATC chapters in relation to regionally important infrastructure. We also consider this will address the submission by Transpower on a similar matter.
- [29] We note that other amendments are recommended to NATC-P1 as a result of submission points addressed in section 3.6 of this Recommendation Report.

² Dr Hume, EIC, paragraph 14

³ Reply Report, paragraphs 2.78 – 2.85

3.4 Rules and Rule Requirements

3.4.1 NATC-R1 and NATC-REQ1 Setbacks Earthworks and Earthwork Stockpiles

- [30] For the following submitters and their submission points we generally agree with the recommendations and reasons of the Section 42A Report author, including in the Reply Report, with some minor changes to the wording recommended in the Reply Report for NATC-REQ1.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0207 | SDC | 033 |
| DPR-0212 | ESAI | 050 |
| DPR-0212 | ESAI | 051 |
| DPR-0260 | CRC | 180 |
| DPR-0353 | HortNZ | 164 |
| DPR-0353 | HortNZ | 158 |
| DPR-0372 | DHL | 065 |
| DPR-0372 | DHL | 068 |
| DPR-0388 | Craigmore | 030 |
| DPR-0388 | Craigmore | 033 |
| DPR-0390 | RIL | 052 |
| DPR-0390 | RIL | 054 |
| DPR-0422 | NCFF | 159 |
| DPR-0427 | DoC | 046 |
| DPR-0439 | Rayonier | 022 |
| DPR-0439 | Rayonier | 023 |
| DPR-0441 | Manawa Energy | 116 |
| DPR-0441 | Manawa Energy | 119 |

- [31] Our understanding from the evidence of Ms Barnett was that ESAI acknowledged drains are not included in the definition of 'surface water bodies' and therefore drainage clearance activities are not subject to NATC-R1 and NATC-REQ1.
- [32] ESAI was however concerned that drain clearance activities along drains would be captured by the NATC-REQ1 setback requirement (i.e. at least 20 metres) from a surface water body (i.e. at the junction of a drain and a river). The Reply Report acknowledged it would be pragmatic to allow earthworks for drain clearance activities within the setback area to enable vegetation and sediment clearance, and this should not constitute a threat to natural character. We agree, and adopt the wording for this recommended in the Reply Report.
- [33] The Reply Report was however concerned that, based on the advice of Mr Smith, earthworks stockpiles are a potential threat to natural character and these should not be exempted and in practice the material could be bladed back beyond the 20 metre setback area.
- [34] However, the Panel considers that there is potential for damage to be caused by using a digger to move excess gravel and sediment back across the setback area. We accept the evidence of Ms Barnett as to the practical need to locate stockpiles, when associated with material taken at the junctions of a drain and a river, within that setback area.
- [35] We have therefore recommended that NATC-REQ1.4 is amended to exclude earthworks and earthworks stockpiles associated with the clearance of artificial watercourses within 20m of the junction of a surface water body from the setback requirement. As an interpretation matter, it is noted that, on the basis that the NATC-REQ1 only applies to setbacks from 'surface

water bodies' (which is recommended to exclude 'artificial watercourses'), there is no need to specifically provide for the clearance of artificial watercourses, except within 20m of a surface water body.

- [36] In relation to the submission point by Rayonier we agree with the Section 42A Report that it is desirable to have consistency between the PDP and the NESPF. However, we consider there is no need to include a specific rule that essentially duplicates the relevant provisions of the NESPF, and therefore our recommendation is to 'accept in part' rather than 'accept' submission DPR-0439.023.
- [37] In terms of s32AA of the RMA we agree with and adopt the evaluation in the Reply Report for the amendments recommended to NATC-REQ1 by the report author. We consider the reasons provided in that evaluation apply equally to the additional changes recommended by the Panel as outlined above.

3.4.2 NATC-R2 and NATC-REQ2 Setbacks for Buildings and Structures

- [38] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author, including in the Reply Report.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0142 | NZ Pork | 022 |
| DPR-0212 | ESAI | 052 |
| DPR-0260 | CRC | 109 |
| DPR-0345 | PAR | 020 |
| DPR-0353 | HortNZ | 165 |
| DPR-0353 | HortNZ | 159 |
| DPR-0372 | DHL | 066 |
| DPR-0372 | DHL | 069 |
| DPR-0381 | CDL | 043 |
| DPR-0388 | Craigmore | 031 |
| DPR-0388 | Craigmore | 034 |
| DPR-0390 | RIL | 053 |
| DPR-0390 | RIL | 055 |
| DPR-0422 | NCFE | 293 |
| DPR-0439 | Rayonier | 024 |
| DPR-0441 | Manawa Energy | 117 |
| DPR-0441 | Manawa Energy | 120 |

- [39] We consider the Section 42A Report, and the Reply Report, have together provided an appropriate response to several submission points requesting greater set backs for buildings and structures from surface water bodies.
- [40] The RPS's focus on avoiding significant adverse effects on natural character and protecting significant natural character values is a key consideration. We also acknowledge the evidence from ESAI and also HortNZ that setback requirements from surface water bodies may have some impact on farm productivity. However, no landscape evidence was provided by the submitters to support their requests and to demonstrate how the reduced setbacks would still achieve the policy and objective direction.
- [41] The Reply Report confirmed that a district wide assessment of natural character has not been done. Whilst that would certainly assist we also consider that, as things stand, the NATC chapter provides the appropriate response to this uncertainty by, in the same manner as in

the Operative District Plan, requiring setbacks for different activities that depend on the perceived risk of that activity reducing the natural character of surface water bodies. The setbacks differ depending on the degree of natural character of surface water bodies that have been broadly identified. We accept that the evidence provided in Mr Smith's report provides an evidential basis for the setbacks.

[42] We consider the evidence of the Section 42A author, and Mr Smith in particular, to be persuasive that larger new buildings and structures are a potential risk to the preservation of natural character, and a resource consent process will be appropriate to test those effects. We accept their evidence that smaller structures may have less effect on natural character values of surface water bodies identified in NATC-SCHED 3 as being highly modified and not well frequented by the public.

[43] We also accept amendments are appropriate, in relation to other points made by submitters, as set out below:

- a reduced setback of 10 metres applied to smaller structures such as small pump sheds and irrigation structures (i.e. equal to or less than 10m² in area), and travelling irrigators, in the NATC-SCHED 3 areas;
- exclusions for maintenance of existing buildings and structures; alterations to existing buildings and structures, and additions and extensions of less than 10m² to existing buildings; and
- exemption for structures associated with river crossings that are otherwise permitted under the NESPF;
- reduction in the 100 metres setback distance from any lake or wetland adjoining a lake to 30 metres where the water body was created as part of residential development; and
- a reduced setback distance of 5m for buildings and structures within the Porters Village Base consistent with SKIZ-REQ6.

[44] We accept the advice from the Reply Report⁴ that a s32AA evaluation has been provided in paragraphs 10.52 – 10.56 of the Section 42A Report and that no further evaluation is necessary for the additional amendments recommended.

3.4.3 NATC-R3 and NATC-REQ3 Setbacks for horticultural planting, woodlots and shelterbelts

[45] For the following submitters and their submission points we agree with and adopt the recommendations and reasons of the Section 42A Report author, including in the Reply Report.

| Sub # | Submitter | Submission Points |
|----------|--------------|-------------------|
| DPR-0212 | ESAI | 053, 054 |
| DPR-0260 | CRC | 110 |
| DPR-0345 | PAR | 021 |
| DPR-0353 | HortNZ | 156, 160 |
| DPR-0372 | DHL | 067, 070 |
| DPR-0379 | Jill Thomson | 042 |
| DPR-0388 | Craigmore | 032, 035 |
| DPR-0422 | NCFE | 294 |

⁴ Reply Report, paragraphs 3.15 – 3.17

| Sub # | Submitter | Submission Points |
|----------|-----------|-------------------|
| DPR-0427 | DoC | 047 |
| DPR-0439 | Rayonier | 025 |

- [46] Submission points by ESAI and HortNZ challenged the basis for vegetation being required to be set back in riparian margins. Ms Barnett for ESAI and Ms Wharfe for HortNZ provided evidence on the extensive areas of land that would potentially be lost from farming production by essentially exempting horticultural plantings in the setback areas alongside surface water bodies. Ms Barnett said in her statement that the definition of ‘horticultural plantings’ is too limiting in that it includes ‘bushes cultivated for commercial purposes’, and could include seasonal crops such as brussel sprouts, beans, capsicums, tomatoes, vine vegetables, as well as fruit grown on vines and on bushes such as blackcurrants, raspberries and boysenberries, noting also that many of these are seasonal crops and it will be difficult to rely on existing use rights to confirm ongoing use of existing plantings.
- [47] Those witnesses also challenged the evidential basis for imposing setback requirements for horticultural plantings, noting in particular the background reports and the Council’s Section 32 report did not make any definitive assertions regarding the effects of horticultural plantings on natural character.
- [48] Mr Smith’s expert landscape evidence was that it would be inappropriate if the term ‘horticultural plantings’ was removed from NATC-R3 due to the individual and cumulative adverse effects that allowing horticultural plantings within the setbacks would have on natural character. The Section 42A Report supported Mr Smith’s conclusions.
- [49] After hearing the evidence, the Panel posed a number of questions it wished to be addressed in the Reply Report relating mainly to the evidential basis that has led to the notified provisions. We were also interested to understand why plantings associated with farming in the General Rural Zone adjacent to surface water bodies should be considered ‘inappropriate development’ in terms of section 6(a) of the RMA.
- [50] In general, we are satisfied with the responses to our questions in the Reply Report, and in particular:
- The available definitions of ‘natural character’ and ‘naturalness’ rely on an assessment or intimate knowledge of the natural characteristics and qualities of the area;
 - Whilst there has to date been no district wide character assessment of natural character to assist, the only expert landscape evidence we had before us was from Mr Smith;
 - We accept Mr Smith’s statement that:

“... horticultural plantings, woodlots and shelterbelts, that consist of stands or rows of food producing trees, vines or bushes (which are typically exotic) would be inappropriate when located near Schedules 2 and 3 water bodies. This is because these waterbodies include ONLs, the Selwyn River and the rivers and creeks that feed into Lake Ellesmere, that are an ONL. These waterbodies generally display a higher degree of natural character. Therefore, more intensive primary production activities near these water bodies should be considered on a case-by-case basis, rather than as a permitted activity,

*because cumulatively the activities are unlikely to directly or indirectly preserve the natural character of these water bodies*⁵; and

- ‘Natural character’ has primacy over ‘rural character’ in the margins of wetland, lakes and rivers, in terms of section 6(a) if the RMA.

[51] Having considered the evidence we are more persuaded by, and accept, the Section 42A Report recommendations, based upon Mr. Smith’s evidence, that it would be inappropriate if the term ‘horticultural plantings’ was removed from NATC-R3 due to the individual and cumulative adverse effects that allowing horticultural plantings within the setbacks would have on natural character.

[52] We acknowledge that whilst the setback areas are relatively narrow, these will affect a large area of potentially productive farming land. However we did not consider these riparian strips to be total exclusion zones as applications can be made, where appropriate, for resource consents to utilise these areas. We also consider that ESAI has taken what appears to be a fairly conservative interpretation of the definition of ‘horticultural plantings’ and it seems unlikely it would include many of the lower growing vegetable crops referred to in Ms Barnett’s evidence.

[53] We do however recommend that Council initiates a district wide natural character assessment, and as part of that, to review the relevant definitions and rules that apply in the scheduled areas.

[54] Finally, we note there is an alignment issue in that NATC-R3 uses the term ‘horticultural plantings’ and NATC-REQ3 use ‘vegetation plantings’, and we accept the Section 42A Report author’s recommendation to change NATC-REQ3 to align with NATC-R3 as this will maintain consistency between the rule and rule requirement as to the vegetation types referred to.

3.4.4 NATC-R4 and NATC-REQ4 Setbacks for signs

[55] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0212 | ESAI | 055 |
| DPR-0260 | CRC | 111 |
| DPR-0353 | HortNZ | 157 |
| DPR-0353 | HortNZ | 161 |
| DPR-0375 | Waka Kotahi | 096 |
| DPR-0441 | Manawa Energy | 118, 121 |

3.5 Schedules

3.5.1 NATC-SCHED2 and NATC-SCHED3

[56] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author, noting that this results in no changes to the notified provisions.

| Sub # | Submitter | Submission Points |
|----------|-----------|-------------------|
| DPR-0032 | CCC | 021 |

⁵ Reply Report, paragraph 2.17.1

| Sub # | Submitter | Submission Points |
|----------|-----------|-------------------|
| DPR-0353 | HortNZ | 162, 163 |

3.5.2 NATC-SCHED4

- [57] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0032 | CCC | 022 |
| DPR-0372 | DHL | 072 |
| DPR-0407 | Forest & Bird | 042 |
| DPR-0427 | DoC | 049 |
| DPR-0441 | Manawa Energy | 122 |

3.6 New Provisions

- [58] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author, which result in some amendments to NATC-O1 and NATC-P1.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0142 | NZ Pork | 074 |
| DPR-0168 | Paula Godfrey | 001, 007, 008 |
| DPR-0212 | ESAI | 049 |

- [59] In response to the submission points of Paula Godfrey, the amendments to NATC-O1 and NATC-P1 to include a new clause are appropriate to reflect the direction in the CRPS to enhance riparian zones.
- [60] We accept and adopt the Section 32AA evaluation for these changes in the Section 42a Report⁶.

3.7 Non Notification Statements

- [61] For the following submitters and their submission points we do not accept the recommendations of the Section 42A Report author

| Sub # | Submitter | Submission Points | Accept | Accept in Part | Reject |
|----------|-----------|-------------------|--------|----------------|--------|
| DPR-0358 | RWRL | 406 | | | ✓ |
| DPR-0363 | IRHL | 431 | | | ✓ |
| DPR-0374 | RIHL | 477 | | | ✓ |
| DPR-0384 | RIDL | 510 | | | ✓ |

- [62] We accept the officer's reasons for not accepting the premise of a generic non-notification clause for all controlled and restricted discretionary activities. However, we note that in any event, NATC-REQ1.10 does already require that applications required by NATC-REQ1 shall not be notified. We do not agree that this requires amendment to further specify that applications shall not be 'publicly or limited notified', and an amendment along these lines could lead to consistency issues across the PDP.

⁶ Section 42A Report, paragraphs 12.15 – 12.20

3.8 Subdivision – SUB-R22

- [63] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author, which results in no amendment to SUB-R22.

| Sub # | Submitter | Submission Points |
|----------|------------|-------------------|
| DPR-0260 | CRC | 126 |
| DPR-0358 | RWRL | 224 |
| DPR-0363 | IRHL | 213 |
| DPR-0374 | RIHL | 219 |
| DPR-0384 | RIDL | 231 |
| DPR-0414 | Kāinga Ora | 116 |
| DPR-0422 | NCFF | 211 |

3.9 Definition of Surface Water Bodies

- [64] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author in the Section 42A report and in the Reply Report.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0207 | SDC | 002 |
| DPR-0212 | ESAI | 004 |
| DPR-0299 | S & J West | 009 |
| DPR-0353 | HortNZ | 077, 039 |
| DPR-0379 | Jill Thomson | 032, 022 |
| DPR-0409 | Hughes | 039 |
| DPR-0422 | NCFF | 087, 029 |
| DPR-0441 | Manawa Energy | 025 |

- [65] This results in recommended amendments to the definition of ‘surface water bodies’ and an associated amendment to the definition of ‘artificial water courses’ in response to the submissions of SDC, HortNZ and the evidence of Ms Wharfe.
- [66] A diagram is also recommended to be inserted to clarify the definition of artificial watercourses’, with the words ‘bank edges’ inserted for clarification and in response to the submission point of Jill Thomson.
- [67] We accept and adopt the Section 32AA evaluation for these changes in the Section 42a Report⁷ and in the Reply Report⁸.

3.10 Natural Character Chapter Generally

- [68] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author, which results in no further amendments to the NATC chapter, beyond those matters discussed in this report.

| Sub # | Submitter | Submission Points |
|----------|-----------|-------------------|
| DPR-0358 | RWRL | 191 |
| DPR-0384 | RIDL | 198 |
| DPR-0422 | NCFF | 211 |
| DPR-0427 | DoC | 045 |

⁷ Section 42A Report, paragraphs 15.13 – 15.16

⁸ Reply Report, paragraph 3.4

3.11 Matters for Control or Discretion

- [69] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

| Sub # | Submitter | Submission Points |
|----------|---------------|-------------------|
| DPR-0032 | CCC | 023 |
| DPR-0372 | DHL | 071 |
| DPR-0407 | Forest & Bird | 041 |
| DPR-0427 | DoC | 048 |

- [70] We agree with the submission point by Forest & Bird to include the 'habitat of indigenous fauna' into NATC-MAT1 as recommended by the officer as indigenous fauna and their habitats are part of 'biodiversity' and therefore contribute to the experience of natural character. The experience of biodiversity is included in the natural character qualities of surface water bodies in NATC-SCHED4.
- [71] We also agree with the submission of the Director General of Conservation that an amendment to NATC-MAT1 to refer to NATC-SCHED4 that states the natural character qualities of surface water bodies will make it clear as to the natural character effects that are relevant. We also accept a small consequential amendment to add the word 'qualities', to ensure it is consistent with the wording of NATC-SCHED4.
- [72] We consider that a section 32AA evaluation is not required due to the minor nature of the change which simply adds clarity to the provisions.

4 Other Matters

- [73] There is one other matter to note arising from our consideration of the submissions and further submissions or that arose during the hearing.
- [74] It is noted there is an error with the relationship between NATC-R3 and NATC-REQ3 in that NATC-R3 only refers to GRUZ, while NATC-REQ3 refers to a number of zones being: GRUZ, GRAZ, MPZ, SKIZ and TEZ.
- [75] The Section 42A Report author's advice was that the intention may have been for NATC-R3 to refer to these other zones as they have been specifically listed. However, with the exception of the PAR submission⁹ reference to SKIZ, this matter has not been raised in any of the submissions and therefore subsequently raises a scope issue. This is not a minor error and altering the rule would have more than a minor effect and therefore it cannot be dealt with by Schedule 1, clause 16 or 20A RMA.
- [76] We consider this to be a matter that Council should address through a plan change.
- [77] The recommended amendments to the PDP provisions contained in Appendix 1 are those that result from this Hearing Panel's assessment of submissions and further submissions. However, readers should note that further or different amendments to these provisions may have been recommended by:
- Hearing Panels considering submissions and further submissions on other chapters of the PDP;

⁹ DPR-0345.021 PAR

- the Hearing Panels considering rezoning requests, and
- the Independent Hearing Panel (IHP) considering submissions and further submissions on Variation 1 to the PDP

[78] Any such further or different amendments are not shown in Appendix 1 of this Recommendation Report. However, the Chair¹⁰ and Deputy Chair¹¹ of the PDP Hearing Panels have considered the various recommended amendments and have ensured that the overall final wording of the consolidated version of the amended PDP is internally consistent.

[79] In undertaking that 'consistency' exercise, care was taken to ensure that the final wording of the consolidated version of the amended PDP did not alter the intent of the recommended amendments contained in Appendix 1 of this Recommendation Report.

¹⁰ Who is also the Chair of the IHP.

¹¹ Who chaired one stream of hearings.

Appendix 1: Recommended Amendments

Note to readers: Only provisions that have recommended amendments are included below. All other provisions remain as notified. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.

Amendments to the PDP Maps

There are no amendments recommended to PDP Planning Maps arising from our recommendations on the submissions and further submissions covered by this Recommendation Report.

Amendments to the PDP Text

Part 1 – Introduction and General Provisions

Interpretation

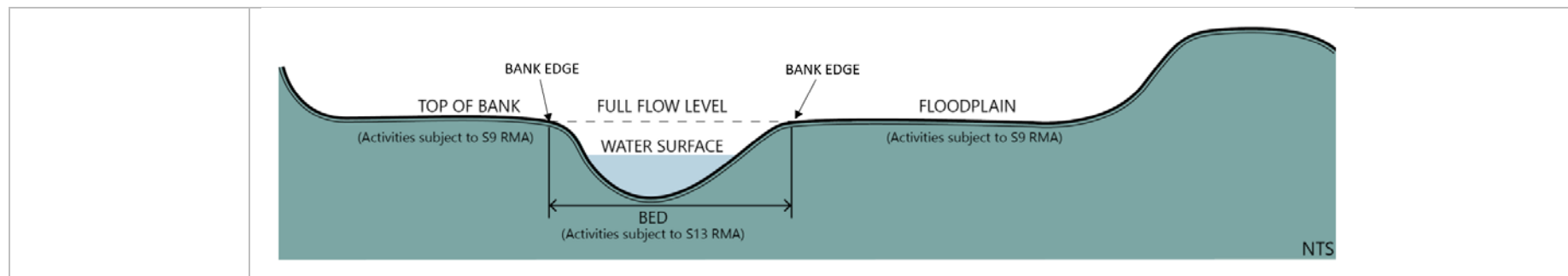
| Definitions | |
|--------------------------------|---|
| ARTIFICIAL WATERCOURSES | <u>A watercourse that is created by human action. It includes an irrigation canal, irrigation storage ponds¹², water supply race, canal for the supply of water for electricity power generation, and farm drainage canal channel. It does not include artificial swales, kerb and channelling or other watercourses designed to convey stormwater.</u> ¹³ |
| SURFACE WATER BODIES | Fresh water or geothermal water in a river, lake, stream, pond, wetland, or any part thereof, <u>which¹⁴ that</u> is not located within the coastal marine area <u>except this excludes the following artificial watercourses: irrigation canal/lake, water supply races, canal for the supply of water for electricity power generation and drainage ditches¹⁵.</u> All surface water body setbacks specified in this plan shall be measured from the bank <u>edge</u> of the surface water body, as illustrated below. |

¹² DPR-0353.077 HortNZ

¹³ DPR-0379.032 Jill Thomson

¹⁴ DPR-0207.002 SDC

¹⁵ DPR-0353.077 HortNZ



Part 2 – District Wide Matters

Energy, Infrastructure and Transport

EI – Energy and Infrastructure

EI-Policies

| EI-Policies | |
|--------------|---|
| EI-P2 | <p>Minimise the adverse effects of important infrastructure, and renewable electricity generation on the physical and natural environment by:</p> <ol style="list-style-type: none"> 1. encouraging the co-location of structures and facilities where efficient and practicable. 2. locating, designing and operating development while minimising the effects on, the amenity values of the surrounding environment, public access and the health and safety of people. 3. limiting the presence and effects of development within Outstanding Natural Landscapes, Visual Amenity Landscapes, <u>natural character areas</u>¹⁶, areas of significant indigenous vegetation and habitats of indigenous fauna, sites of historic heritage and site and areas of significance to Māori to those which... |

¹⁶ DPR-0441.015 Manawa Energy

Natural Environment Values

NATC – Natural Character

NATC-Overview

....

Activities such as buildings and structures, earthworks, planting and indigenous vegetation clearance can all affect the natural character of the margins of the District's surface water bodies. Climate change can also affect the natural character of the margins of surface water bodies by changing natural processes. Activities within the margins of surface water bodies can exacerbate the effects of climate change on natural character.¹⁷ With respect to managing the effects of livestock on surface water bodies, Rules 5.70 and 5.71 of the Canterbury Land and Water Regional Plan provide for the exclusion of stock from surface water bodies.¹⁸

NATC-Objectives and Policies

NATC-Objectives

NATC-O1 The natural character of surface water bodies and their margins is preserved and enhanced where appropriate¹⁹.

NATC-Policies

NATC-P1 Recognise the natural character qualities of surface water bodies and their margins described in NATC-SCHED4 and preserve and protect those qualities, and Ngāi Tahu cultural values, from inappropriate subdivision, use and development by:

...

2. ensuring that the location, intensity, scale and form of subdivision, earthworks, buildings, structures, vegetation planting and signs on near²⁰ surface water bodies and/or²¹ their margins recognises and preserves the natural character of the surface water body ~~by requiring appropriate setbacks~~²²;

...

4. enabling opportunities to restore and rehabilitate the natural character of surface water bodies and their margins, ~~such as through the removal of plant and animal pests~~²³, and supporting initiatives for the regeneration of indigenous biodiversity values and cultural values.

5. prioritising enhancement or environmental mitigation where development, subdivision or changes in use occur which is proportional to the scale of the development and any adverse effects created.²⁴

6. acknowledging that important infrastructure can have a functional need or operational need to locate in the margins of surface water bodies, and if so, must:

a. demonstrate through site, route or method selection, the minimisation of effects on natural character values; and

¹⁷ DPR-0407.039 Forest & Bird

¹⁸ DPR-0441.114 Manawa Energy

¹⁹ DPR-0168.001 P Godfrey

²⁰ DPR-0422.158 NCFF

²¹ DPR-0422.158 NCFF

²² DPR-0422.158 NCFF

²³ DPR-0422.158 NCFF

²⁴ DPR-0168.001 P Godfrey

b. integrate design measures and management methods to mitigate adverse effects on natural character values²⁵
except for important infrastructure managed under EI-P2²⁶ and land transport infrastructure managed under TRAN-P13²⁷

NATC-Rules

| NATC-R4 | Signs | |
|---------|---|--|
| | Activity status: PER 1. Any sign Where: The site is: a. any official sign; or b. displayed in a public place for the purpose of direction, warning, township identification and welcome, visitor/ community / <u>historical</u> information, recreation, <u>conservation</u> , or community activities; <u>or</u> c. displayed for visitor or worker health and safety; <u>or</u> ²⁸ d. for the users of roads, or off-road walking and cycle tracks, and that is for the purpose of direction, track marking, warning, fire restrictions, or interpretation. | Activity status when compliance not achieved: 2. When compliance with NATC-R4.1 is not achieved: Refer to NATC-REQ4 Setbacks from Surface Water Bodies – Signs |

NATC-Rule Requirements

| NATC-REQ1 | Setback from Surface Water Bodies – Earthworks and Earthwork Stockpiles | |
|--|--|---|
| GRUZ GRAZ MPZ TEZ | 4. All earthworks and earthworks stockpiles, are to be located at least 20m from the bank of any surface water body <u>excluding those required for:</u> a. <u>a conservation activity²⁹; or</u> b. <u>the clearance of artificial watercourses within 20m of the junction of a surface water body³⁰.</u> c. <u>for a river crossing that complies with the NESPF.³¹</u> | Activity Status when compliance not achieved: 5. When compliance with any of NATC-REQ1.4. is not achieved: RDIS Matters for discretion: 6. The exercise of discretion in relation to NATC-REQ1.5 is restricted to the following matters: a. NATC-MAT1 b. SASM-MAT3 |

²⁵ DPR-0441.115 Manawa Energy and DPR-0446.091 Transpower

²⁶ DPR-0375.088 WKNZTA, DPR-0441.100 Manawa Energy and DPR-0446.082 Transpower

²⁷ DPR-0375.088 WKNZTA, DPR-0441.100 Manawa and DPR-0446.082 Transpower

²⁸ DPR-0212.055 ESAI

²⁹ DPR-0207.033 SDC

³⁰ DPR-0212.050 ESAI

³¹ DPR-0439.023 Rayonier

| NATC-REQ2 | Setbacks from Surface Water Bodies – Buildings and Structures | |
|---------------------|--|---|
| All Zones | <p>1. All buildings and structures excluding fence and signage posts shall comply with the following setbacks from any surface water body:</p> <ol style="list-style-type: none"> 100m from the bank of any lake and any wetland adjoining a lake, or 30m from any artificial lake or wetland that was created <u>as part of residential development</u>)³²; 25m from the bank of any surface water body listed in NATC-SCHED1 or NATC-SCHED2, other than from the bank of any lake and any wetland adjoining a lake, where NATC-REQ2.1.a. applies; 20m from the bank of any surface water body listed in NATC-SCHED3, <u>except for pump sheds and irrigation structures less than 10m² and travelling irrigators</u>³³ <u>which must be set back a minimum within 10m from a bank of a surface water body listed in NATC-SCHED3</u>³⁴; and 10m from the bank of any other surface water body, <u>except within the Porters Village Base lower slopes Sub Area, where a 5m setback shall apply from the edge of Porter Stream</u>³⁵. <p>Excluded from the above setback requirements are:</p> <ul style="list-style-type: none"> fences, and and signage posts; and <u>maintenance of existing buildings and structures; and</u> <u>alterations to existing buildings and structures; and</u> <u>additions or extensions to existing buildings, where the addition or extension has a maximum floor area of 10m².</u>³⁶ structures associated with river crossings that comply with the NESPF³⁷ | <p>Activity Status when compliance not achieved:</p> <p>2. When compliance with NATC-REQ2.1 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p>3. The exercise of discretion in relation to NATC-REQ2.2 is restricted to the following matters:</p> <ol style="list-style-type: none"> NATC-MAT1 SASM-MAT3 |
| NATC-REQ3 | Setbacks from Surface Water Bodies – Vegetation Planting Horticultural plantings, woodlots and shelterbelts | |
| GRUZ GRAZ MPZ | <p>Vegetation plantings Horticultural plantings, woodlots and shelterbelts³⁸ shall comply with the following setbacks from any surface water body:...</p> | <p>Activity Status when compliance not achieved:</p> <p>2. When compliance with NATC-REQ3.1 is not achieved: RDIS</p> |

³² DPR-0212.052 ESAI

³³ DPR-0353.159 HortNZ, DPR-0372.069 DHL, DPR-0388.034 Craigmore and DPR-0390.055 RIL

³⁴ DPR-0372.069, DPR-0388.034 and DPR-0390.055

³⁵ DPR-0345.020 PAR

³⁶ DPR-0212.052 ESAI

³⁷ DPR-0439.024 Rayonier

³⁸ DPR-0212.054 ESAI

| | | |
|---------------------|--|--|
| SKIZ TEZ | | Matters for discretion: 3. The exercise of discretion in relation to NATC-REQ3.2 is restricted to the following matters: a. NATC-MAT1 b. SASM-MAT3 |
|---------------------|--|--|

NATC-Matters for Control or Discretion

| NATC-MAT1 | Natural Character |
|------------------|---|
| | 1. The extent to which the proposed activity will affect the natural character <u>qualities (as set out in NATC-SCHED4)</u> ³⁹ of the surface water body and its margins; 2. The effects of the proposed activity on any indigenous vegetation and any effects on mahinga kai and other customary uses <u>and habitat of indigenous fauna</u> ⁴⁰ . |

NATC-Schedules

| NATC-SCHED4 – Natural Character Qualities of Surface Water Bodies |
|---|
| Recognise that the following natural elements, patterns, processes and experiential qualities contribute to the natural character qualities of surface water bodies: ... 4. biodiversity, <u>including the extent of indigenous biodiversity</u> ⁴¹ |

³⁹ DPR-0427.048 DOC

⁴⁰ DPR-0407.041 Forest & Bird

⁴¹ DPR-407.042 Forest and Bird

Appendix 2: List of Appearances and Tabled Evidence

Hearing Appearances

| Sub # | Submitter | Author | Role |
|----------|---|--|--------------------------------------|
| DPR-0212 | Ellesmere Sustainable Agriculture Incorporated (ESAI) | Carey Barnett | Environmental Advisor |
| DPR-0353 | Horticulture New Zealand | Lynette Wharfe | Consultant Planner |
| DPR-0372 | Dairy Holdings Limited | Ben Williams | Counsel |
| DPR-0422 | Federated Farmers of NZ – North Canterbury | Dr Lionel Hume | Policy Advisor |
| DPR-0441 | Manawa Energy Ltd | Shelby McFarlane- Hill Roma Calland | Policy Advisor Consultant Planner |

Tabled Evidence

| Sub # | Submitter | Author | Role |
|----------|--------------------|-----------------|---------|
| DPR-0299 | Steve & Jane West | Jane West | Self |
| DPR-0372 | Dairy Holdings Ltd | Brian Gallagher | Company |
| DPR-0466 | Transpower | Trudi Burney | Planner |