

Proposed Selwyn District Plan



Section 42A Report

Report on submissions and further submissions

Natural Character

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March 2022

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List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0032	Christchurch City Council	CCC
DPR-0142	New Zealand Pork Industry Board	NZ Pork
DPR-0157	Kevin & Bonnie Williams	K & B Williams
DPR-0168	Paula Godfrey	P Godfrey
DPR-0207	Selwyn District Council	The Council
DPR-0209	Manmeet Singh	M Singh
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	ESAI
DPR-0260	Canterbury Regional Council (Environment Canterbury)	CRC
DPR-0298	Trices Road Re-zoning Group	Trices Rd
DPR-0299	Steve & Jane West	S & J West
DPR-0301	Upper Waimakariri/Rakaia Group	UWRG
DPR-0345	Porters Alpine Resort	PAR
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0358	Rolleston West Residential Limited	RWRL
DPR-0363	Iport Rolleston Holdings Limited	IRHL
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0372	Dairy Holdings Limited	DHL
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0375	Waka Kotahi NZ Transport Agency	Waka Kotahi
DPR-0379	Jill Thomson	J Thomson
DPR-0381	Coleridge Downs Limited	CDL
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0388	Craigmore Farming Services Limited	Craigmore
DPR-0390	Rakaia Irrigation Limited	RIL
DPR-0407	Royal Forest & Bird Protection Society of New Zealand Inc. (Forest & Bird)	Forest & Bird
DPR-0409	Hughes Developments Limited	Hughes
DPR-0411	Hughes Developments Limited	Hughes
DPR-0414	Kāinga Ora - Homes & Communities	Kāinga Ora
DPR-0422	Federated Farmers of New Zealand - North Canterbury	FFNC
DPR-0427	Lou Sanson, Director-General of Conservation	DoC
DPR-0439	Rayonier Matariki Forests	Rayonier
DPR-0441	Trustpower Limited	Trustpower
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0453	Midland Port, Lyttelton Port Company Limited	LPC
DPR-0456	Four Stars Development & Gould Developments Ltd	Four Stars & Gould
DPR-0461	Dunweavin 2020 Ltd	Dunweavin
DPR-0472	Gourlie Family	Gourlie
DPR-0486	Coleridge Downs Limited	CDL
DPR-0492	Kevler Development Ltd	Kevler
DPR-0493	Gallina Nominees Ltd & Heinz-Wattie Ltd Pension Plan	Gallina & Heinz-Wattie
DPR-0565	Shelley Street Holdings Ltd	Shelley St

Please refer to **Appendix 1** to see where each submission point is addressed within this report.

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
NPSREG	National Policy Statement for Renewable Electricity Generation
CRPS	Canterbury Regional Policy Statement 2013
RP	Canterbury Land and Water Regional Plan
PDP	Proposed Selwyn District Plan
RMA	Resource Management Act 1991
The Council	Selwyn District Council

1 Purpose of report

- 1.1 This report is prepared under s42A of the RMA in relation to the Natural Character chapter in the PDP. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations on either retaining the PDP provisions without amendment or making amendments to the PDP in response to those submissions.
- 1.2 The recommendations are informed by both the technical information provided by Mr Paul Smith, Rough Milne Mitchell Landscape Architects (see Appendix 3) and the evaluation undertaken by myself as the planning author. In preparing this report I have had regard to the s42A report on Strategic Directions prepared by Mr Robert Love and the Overview s42A report that addresses the higher order statutory planning and legal context.
- 1.3 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

2 Qualifications and experience

- 2.1 My full name is Mark William Geddes. I am a director and consultant at Perspective Consulting Ltd and have been engaged by the Council as a consultant planner. My qualifications include a Master of Science (Spatial Planning) and a Bachelor of Resource Studies. I am a full member of the New Zealand Planning Institute.
- 2.2 I have 21 years' experience as a resource management planner, working in New Zealand, Ireland and Australia in the both the public and private sectors. I have been employed as a planner for Mackenzie, Queenstown Lakes and Timaru District Councils, along with councils overseas. I was the District Planning Manager at Timaru District Council until recently. At Timaru District Council, I led their District Plan Review and have prepared a number of plan changes, s. 42A reports and appeared as an expert witness in the Environment Court. In leading the Timaru District Plan Review I have been involved in the preparation and approval of their natural character chapter.
- 2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Having reviewed the submitters and further submitters relevant to this topic, I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

3 Scope of report and topic overview

- 3.1 This report considers the submissions and further submissions that were received in relation to the Natural Character chapter.
- 3.2 Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where

it is considered that an amendment may be appropriate, but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. Where no amendments are recommended to a provision, submissions points that sought the retention of the provision without amendment are not footnoted.

- 3.3 Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. A number of alterations have already been made to the PDP using cl.16(2) and these are documented in reports available on the Council's website. Where a submitter has requested the same or similar changes to the PDP that fall within the ambit of cl.16(2), then such amendments will continue to be made and documented as cl.16(2) amendments and identified by way of a footnote in this s42A report.

4 Statutory requirements

Resource Management Act 1991

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand coastal policy statement, national planning standards; and any regulations¹. Regard is also to be given to the CRPS, any regional plan, district plans of adjacent territorial authorities, and the IMP.
- 4.2 As set out in the 'Overview' Section 32 Report, there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in more detail within this report where relevant to the assessment of submission points. This report also addresses any definitions that are specific to this topic, but otherwise relies on the s42A report that addresses definitions more broadly.
- 4.3 The assessment of submission points is made in the context of the Section 32 report for the NATC and the Section 32 reports already undertaken in respect of the Strategic Directions and the Energy and Infrastructure Chapters.
- 4.4 All recommended amendments to provisions since the initial s32 evaluation was undertaken must be documented in a subsequent s32AA evaluation and this has been undertaken for each of key proposed amendments.

5 Procedural matters

- 5.1 At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.
- 5.2 There were errors in the way that submission point no. 158 from FFNC was recorded in the summary of submissions. However, the clauses where amendments have been requested were correctly identified in the summary of submissions and therefore further submitters had adequate

¹ Section 74 RMA

opportunity to refer to the original submission for the correct decision sought. Accordingly, no natural justice issues arise and therefore I do not recommend re-notifying the summary of this submission. If the hearings panel does not accept this recommendation, as alternative they could seek views from submitters on this submission point at the hearing with a subsequent right of reply from the submitter and reporting officer.

- 5.3 Submissions points 009 (S&J West) and 039 (Huges) requested to make submissions on the illustration that was supposed to be included in the definition of surface water bodies but was not due to an issue with the e-plan software. I consider that it would be appropriate for the submitters to comment on this illustration (see figure 1 in this report) through the hearing process. In the interests of natural justice, the other submitters should also be invited to comment on the illustration.
- 5.4 There is an error with the relationship between NATC-R3 and NATC-REQ3 in that NATC-R2 only refers to GRUZ, while NATC-REQ3 refers to a number of zones being: GRUZ, GRAZ, MPZ, SKIZ and TEZ. However, with the exception of the PAR submission² 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. It is recommended the Hearings Panel seek the submitters comments regarding the inclusion of GRUZ, GRAZ, MPZ, SKIZ and TEZ in column 1 of NATC-R3 through the hearing process. If there is no objection to their inclusion, they should be included, but if there is objection they should not be included, and the only way Council can remedy this error is to address this matter through a plan change.

6 Consideration of submissions

Overview of submissions

- 6.1 A total of 121 submissions were received in relation to the Natural Character chapter and 52 further submissions. There were 62 submissions in support or support in part and 58 submissions opposed or opposed in part. One submission was neither in support or opposition.
- 6.2 Common themes in respect of the submissions in opposition were:
- a. requests seeking exemptions from the setback rules for certain activities;
 - b. requests seeking reduced setbacks distances;
 - c. requests seeking the deletion of rules due to duplication with the regional plan;
 - d. requests to allow for the functional needs of infrastructure;
 - e. providing for conservation activity.

Structure of this report

- 6.3 The report is structured to address the submissions made in respect of each provision, in the order of objectives, policies, rules, rule requirements, schedules and other matters. Each section has been set out to provide a:

² DPR-0345.021 PAR

- a. summary of the relevant provisions;
- b. summary of the submissions position and decision requested;
- c. analysis of the submissions thematically;
- d. recommended amendments to the provisions.

7 Overview

Introduction

- 7.1 The overview of the NATC provides an introduction to the chapter setting out, amongst other things, the statutory basis for the chapter; relevant definitions; comments on jurisdictional matters; tangata whenua interest in natural character; and activities that effect natural character.

Submissions

- 7.2 One submission was received in relation to the NATC-Overview section from Forest and Bird.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0407	Forest & Bird	039	Support In Part	Include a reference to natural character and climate change in the Natural Character Chapter overview.
DPR-0301	UWRG	FS117	Support	Allow in full

Analysis

- 7.3 The submission point³ requested that 'natural character and climate change' is referred to in the overview. However, it is not specific in terms of what reference it is requesting regarding natural character and climate change. The submitter is welcome to elaborate on their submission point at the hearing.
- 7.4 Notwithstanding, it is well known that climate change can affect water bodies and their margins, including increasing erosion and changing species composition of riparian areas and therefore subsequently affecting natural character. Climate change is not a matter that is directly caused by new development but is relevant in that new development can worsen the effects of climate change on natural character. To acknowledge this, I recommend that a small amendment is included in the NATC-Overview section and the submission point is accepted.

Recommendations and amendments

- 7.5 I recommend, for the reasons given above, the Hearings Panel amend NATC-Overview.
- 7.6 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 7.7 I recommend that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**

³ DPR-0407.039 Forest & Bird

8 Objectives

NATC-O1

Submissions

- 8.1 Seven submissions were received in relation to this objective with six submissions in support and one opposed. All but two submissions requested that NATC-O1 is retained as notified.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	105	Support	Retain as notified.
DPR-0353	HortNZ	153	Support	Retain as notified
DPR-0372	DHL	062	Support	Retain as notified
DPR-0390	RIL	049	Support	Retain as notified.
DPR-0422	NCFF	156	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS128	Oppose	Reject the submission
DPR-0441	Trustpower	FS090	Oppose	Reject
DPR-0427	DoC	043	Support	Retain as notified.
DPR-0301	UWRG	FS185	Support	Allow in full
DPR-0407	Forest & Bird	FS209	Support	Accept the submission
DPR-0441	Trustpower	114	Support In Part	Amend as follows: The natural character of surface water bodies and their margins is preserved <u>where practicable while, recognising the functional need of regionally significant infrastructure to be located on the surface and margins of waterbodies.</u>

Analysis

Duplication with Regional Plan

- 8.2 The FFNC submission⁴ requests that NATC-O1 is deleted on the basis that the provisions overlap with the provisions managing the natural character of water bodies within the Canterbury Land and Water Regional Plan (LWRP).
- 8.3 It is acknowledged that the LWRP has some provisions that address natural character, although they are limited to mainly objectives and policies and matters of discretion. For example, rule 5.169 of the LWRP includes a matter of discretion addressing natural character but is mainly focused on managing the effects of erosion. The objectives, policies and rules of the LWRP do not specifically address new land use activities within the margins of water bodies in respect of managing natural character effects. Overall, I consider that the LWRP rules focus on core regional council functions such as water quality and not on the natural character of riparian areas.
- 8.4 Sections 30 and 31 RMA state the functions for regional councils and territorial authorities but do not provide specific guidance in relation to natural character other than enabling both authorities to establish, objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the

⁴ DPR-0422.156 FFNC

district. Notwithstanding, the Canterbury Regional Policy Statement does provide guidance on this matter, with Methods 1 and 4 of Policy 10.3.1 stating:

“The Canterbury Regional Council:

Will:

1. *Set out objectives and policies, and may include methods in regional plans to enable and to control activities in river and lake beds.*

...

Territorial authorities:

Will:

4. *Set out objectives and policies, and may include methods in district plans to control the effects of the inappropriate subdivision, use, development, or protection of land to avoid, remedy or mitigate adverse effects on the values of the riparian zones of rivers and lakes. [Emphasis Added]*

- 8.5 Methods 1 and 4 under Policy 10.3.2 of the Regional Policy Statement are similar, with a focus on protection and enhancement. As section 75(3) RMA requires that a district plan give effect to a regional policy statement, it is clear the District Plan must manage the effects of inappropriate activities within riparian zones to address natural character. Accordingly, this submission point⁵ can in my view be rejected. Any duplication that does exist between the NATC chapter and the regional plan, albeit minor, is acceptable in the context of the different functions of Councils and the differing activities that the two plans manage.

Recognising the function and operational needs of infrastructure

- 8.6 The Trustpower submission⁶ requests an amendment to NATC-O1 to recognise the functional needs of regionally significant infrastructure to locate in the margins of waterbodies.
- 8.7 As per clause 4 of the ‘Note for Plan Users’ in the Energy and Infrastructure (EI) chapter, 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
- 8.8 While I have no issue with recognising the functional and operational need of regional significant infrastructure to locate in the margins of waterbodies, this is already recognised in EI-P1.
- 8.9 To avoid duplication and to ensure the overall intent of NATC-O1 is achieved, I recommend that NATC-O1 is not amended as requested. However, I do recommend that the ‘how the plan works’ section is amended to provide some clarity as to how the EI and the NATC chapter work together. This is within the overall scope of the submission and will ensure the functional needs of regionally significant infrastructure to locate in the margins of waterbodies is considered in the context of

⁵ DPR-0422.156 NCCF

⁶ DPR-0441.114 Trustpower

the consideration of any resource consent application under the NATC. Accordingly, I recommend the submission point⁷ is accept in part.

Recommendations and amendments

- 8.10 I recommend, for the reasons given above, the Hearings Panel amend the 'Relationship between spatial layers' section.
- 8.11 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 8.12 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NATC-02

Submissions

- 8.13 Five submissions were received in relation to NATC-02.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	106	Support	Retain as notified.
DPR-0353	HortNZ	154	Support	Retain as notified
DPR-0372	DHL	063	Support	Retain as notified
DPR-0390	RIL	050	Support	Retain as notified.
DPR-0422	NCFF	157	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS129	Oppose	Reject the submission

Analysis

- 8.14 The CRC⁸, HortNZ⁹, DHL¹⁰ and RIL¹¹ submissions seek to retain NAT-02 as notified. I recommended these submission points are accepted.
- 8.15 The FFNC¹² submission requests that NAT-02 is deleted on the basis that it overlaps with the provisions of the LWRP. The issue of the provisions overlapping with the LWRP has been addressed above. No detail regarding how NATC-02 overlaps with the LWRP is provided by the submission. Accordingly, I recommend the submission point¹³ is rejected.

Recommendations

- 8.16 It is recommended, for the reasons above, the Hearings Panel does not amend NATC-02.
- 8.17 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

⁷ DPR-0441.114 Trustpower

⁸ DPR-0260.106 CRC

⁹ DPR-0353.154 HortNZ

¹⁰ DPR-0372.063 DHL

¹¹ DPR-0390.050 RIL

¹² DPR-0422.157 NCFF

¹³ DPR-0422.157 NCFF

9 Policies

NATC-P1

Submissions

- 9.1 Nine submissions were received in relation to NATC-P1, with seven submissions in support or support in part, while two submissions were in opposition in part.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	107	Support	Retain as notified.
DPR-0353	HortNZ	155	Oppose In Part	Retain as notified
DPR-0372	DHL	064	Support	Retain as notified
DPR-0390	RIL	051	Support	Retain as notified.
DPR-0407	Forest & Bird	040	Support In Part	Not specified
<i>DPR-0301</i>	<i>UWRG</i>	<i>FS118</i>	<i>Support</i>	<i>Allow in full</i>
DPR-0422	NCFF	158	Oppose In Part	Transfer NATC-P1.1 to the SASM Chapter. Amend NATC-P1.2 to 4. as follows and transfer to the EIB Chapter: 2. ensuring that the location, intensity, scale and form of subdivision, earthworks, buildings, structures, vegetation planting and signs near located on or adjoining surface water bodies and their margins recognises and preserves the natural character of the surface water body by requiring appropriate setbacks; 3. minimising to the extent practicable, indigenous vegetation clearance and modification (including earthworks, disturbance, and structures) near surface water bodies and their margins, <u>while enabling people to source drinking or stockwater, erect or maintain stock fences, manage plant pests, and soil erosion, mitigate potential natural hazards, maintain access tracks and vehicle crossings, and make other reasonable use of their land;</u> 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 and supporting initiatives for the regeneration of indigenous biodiversity values and cultural values.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS130</i>	<i>Oppose</i>	<i>Reject the submission</i>
<i>DPR-0441</i>	<i>Trustpower</i>	<i>FS091</i>	<i>Oppose</i>	<i>Reject</i>
DPR-0427	DoC	044	Support	Retain as notified.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0301	UWRG	FS186	Support	Allow in full
DPR-0407	Forest & Bird	FS210	Support	Accept the submission
DPR-0441	Trustpower	115	Support In Part	Amend as follows: ... <u>5. recognising that renewable electricity generation has a functional need to locate within and adjacent to surface waterbodies.</u>
DPR-0446	Transpower	091	Support In Part	Amend as follows: 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: <u>X. providing for important infrastructure that has a technical, functional or operational need for its location.</u>
DPR-0375	Waka Kotahi	FS108	Support	Accept amendment.
DPR-0441	Trustpower	FS092	Support	Accept

Analysis

Cultural values

- 9.2 The FFNC¹⁴ submission requests the transfer of NATC-P1.1 to the SASM chapter. NATC-P1.1 is intended to implement NATC-O2. While NATC-P1.1 is similar to SASM-P2, I note that SASM-P2 is not as specific as NATC-P1.1 and does not mention taonga species and mahinga kai, which are particularly associated with the margin of surface water bodies. It also does not mention the activities that threaten cultural values, or natural character. I consider the greater specificity of NATC-P1.1 is helpful in the context of the NATC chapter. Accordingly, and considering the significance of surface water bodies and their margins to tangata whenua, I recommend that NATC-P1.1 is retained, and the submission point rejected.
- 9.3 A similar matter raised by the FFNC submission is the deletion of 'cultural values' from NATC-P1.4. The inclusion of 'cultural values' is intended to implement NATC-O2 and that part of NATC-P1 that seeks to preserve Ngāi Tahu cultural values associated with surface water bodies. With this in mind and as there is, in my view, no reason not to support opportunities to rehabilitate the natural character of surface water bodies, I recommend that submission point is rejected.

Requiring setbacks

- 9.4 The FFNC¹⁵ submission seeks to delete 'requiring appropriate setbacks' from NATC-P1.2 and make other amendments.

¹⁴ DPR-0422.158 NCF

¹⁵ DPR-0422.158 NCF

- 9.5 I agree with the deletion of *‘requiring appropriate setbacks’* as it is a method and only one way that the natural character will be preserved. For instance, a resource consent could be lodged to contravene the PDP’s setback requirements that by way of its location or design avoids any adverse effect on natural character values. Including *‘requiring appropriate setbacks’* has the effect of foreclosing other methods of preserving natural character. I agree in part with the other suggested amendments to provide greater clarity but have recommended slightly different wording. Accordingly, the submission point is recommended to be accepted in part.

Removal of plant and animal pests

- 9.6 The FFNC¹⁶ submission requests the ‘removal of plant and animal pests’ from NATC-P1.4. I recommend this submission point is accepted in part as providing examples in policy is not good practice.

Duplication of the ecosystems chapter

- 9.7 The FFNC¹⁷ submission requests the deletion of NATC-P1.2 and P.4 on the basis that these matters should be addressed in the Ecosystems and Indigenous Biodiversity Chapter (EIB). However, clause 20, section 7 of the National Planning Standards requires any provisions to protect the natural character of wetlands, lakes and rivers and their margins to be addressed in the Natural character chapter. Section 74(1) RMA requires compliance with the National Planning Standards. Accordingly, I recommend this submission point is rejected.

Indigenous Vegetation Clearance and Modification

- 9.8 The FFNC submission¹⁸ requests the amendment of NATC-P1.3 to enable a number of typical farming needs to modify the margins of surface water bodies.
- 9.9 Of these matters it is noted that fences are exempt from complying with NAT-REQ2 (building and structure setbacks) and removal of plant pests is specifically stated as being enabled in NATC-P1. As such and as the inclusion of words *‘minimising, to the extent practicable’* in NATC-P1.3 means the policy is not to avoid all effects, but to minimise effects, it provides suitable flexibility to enable the open consideration of a range activities. As the rules/standards work in tandem with the policies, providing greater specificity, the rules/standards can be amended as required to exempt activities, which are impracticable to require consent for. Further, enabling activities would lend itself to a permitted activity status, and while some activities that may require consent are typical farming activities, they may have effects on natural character that require consideration through a consent framework. In summary, there is no need to amend NATC-P1 and therefore this submission point should be rejected

Recognising the functional need of infrastructure and renewable electricity generation

- 9.10 The submissions from Trustpower¹⁹ and Transpower²⁰ request amendments to recognise the functional need of renewable electricity generation and important infrastructure to locate within

¹⁶ DPR-0422.158 NCCF

¹⁷ DPR-0422.158 NCCF

¹⁸ DPR-0422.158 NCCF

¹⁹ DPR-0441.115 Trustpower

²⁰ DPR-0446.091 Transpower

the margins of surface water waterbodies. This matter is addressed above (starting at paragraph 8.6) and I have recommended a minor amendment is made to the 'how the plan works section' to clarify the relationship between the EI and NATC chapters. The submission is therefore recommended to be accepted in part

Recommendation and amendments

- 9.11 I recommended, for the reasons given above, the Hearings Panel amend NATC-P1.
- 9.12 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 9.13 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10 Rules and Rule Requirements

NATC-R1 and NATC-REQ1 (Setbacks Earthworks and Earthwork Stockpiles)

Submissions

- 10.1 Seven submissions were received in relation to NATC-R1, with one submission in part support and the remainder either opposed or opposed in part. Eleven submissions were received in relation to NATC-REQ1, with eight submissions being in part opposition and three submissions being in support, or support in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0353	HortNZ	164	NATC-R1	Oppose In Part	Retain as notified
DPR-0372	DHL	065	NATC-R1	Oppose In Part	Grant relief sought in relation to NATC-REQ1.4.
DPR-0388	Craigmore	030	NATC-R1	Oppose In Part	Grant relief sought in relation to NATC-REQ1.4.
DPR-0390	RIL	052	NATC-R1	Oppose In Part	Grant relief sought in relation to NATC-REQ1.4.
DPR-0422	NCFE	159	NATC-R1	Oppose	Delete NATC-R1, NATC-R2 and NATC-R3; or Insert a new rule as follows: <u>NATC – R5: Rules NATC R1-4 do not apply to any activity which is subject to a rule to manage its location within a riparian margin under either a national environmental standard or a regional rule.</u>
DPR-0407	Forest & Bird	FS131	NATC-R1	Oppose	Reject the submission
DPR-0439	Rayonier	022	NATC-R1	Oppose In Part	Amend to align with the provisions of the NESPF and maybe to allow for earthworks associated with river crossings.
DPR-0441	Trustpower	116	NATC-R1	Support In Part	Retain as notified provided that relief sought for NATC-REQ1 is accepted.
DPR-0207	SDC	033	NATC-REQ1	Oppose In Part	Amend as follows: 4. All earthworks and

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					earthworks stockpiles, <u>excluding those required for a conservation activity</u> , are to be located at least 20m from the bank of any surface water body.
DPR-0372	DHL	FS011	NATC-REQ1	Support	Accept the submission.
DPR-0212	ESAI	050	NATC-REQ1	Oppose In Part	Amend as follows: 4. All earthworks <u>that are not associated with drain clearance activities and stockpiles</u> are to be located at least 5m 20m from the bank of any surface water body. Insert below NATC-REQ1.4: <u>1.X. earthworks stockpiles that are not associated with drain clearance activities are to be located at least 5m from the bank of any surface water body.</u>
DPR-0372	DHL	FS020	NATC-REQ1	Support	Accept the submission.
DPR-0212	ESAI	051	NATC-REQ1	Oppose In Part	Amend NATC-REQ1 to introduce a new requirement, applicable in all zones: <u>1.X The digging of holes for plant placement associated with Conservation Activity can be located immediately adjacent to a flowing surface water body and/or within a wetland and is not subject to a minimum setback from surface water bodies.</u>
DPR-0260	CRC	180	NATC-REQ1	Support In Part	That permitted activity earthworks are provided for within the setbacks contained in NATC-REQ1 when associated with restoration and enhancement projects.
DPR-0212	ESAI	FS075	NATC-REQ1	Support	Allow in full
DPR-0353	HortNZ	158	NATC-REQ1	Oppose In Part	Amend as follows: 4. All earthworks and earthworks stockpiles are to be located at least 20m from the bank of any surface water body, <u>except that:</u> <u>a. Earthworks within 20m of the bank of any surface water body are permitted where the earthworks are:</u> <u>i. associated with measures to mitigate potential</u>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					<u>environmental effects of cultivation; and</u> <u>ii. managed in a certified Farm Environment Plan under the Canterbury Land and Water Regional Plan.</u>
DPR-0422	NCCF	FS040	NATC-REQ1	Support	Allow the submission point
DPR-0372	DHL	068	NATC-REQ1	Oppose In Part	Amend as follows: 4. All earthworks and earthworks stockpiles are to be located at least 20m from the bank of any surface water body, <u>unless it is for the purpose of installing, operating or maintaining irrigation infrastructure.</u>
DPR-0422	NCCF	FS101	NATC-REQ1	Support	Allow the submission point
DPR-0388	Craigmore	033	NATC-REQ1	Oppose In Part	Amend as follows: 4. All earthworks and earthworks stockpiles are to be located at least 20m from the bank of any surface water body, <u>unless it is for the purpose of installing, operating or maintaining irrigation infrastructure.</u>
DPR-0390	RIL	054	NATC-REQ1	Oppose In Part	Amend NATC-REQ1.4 as follows 4. All earthworks and earthworks stockpiles are to be located at least 20m from the bank of any surface water body, <u>unless it is for the purpose of installing, operating or maintaining irrigation infrastructure.</u>
DPR-0427	DoC	046	NATC-REQ1	Support	Retain as notified.
DPR-0301	UWRG	FS188	NATC-REQ1	Support	Allow in full
DPR-0407	Forest & Bird	FS212	NATC-REQ1	Support	Accept the submission
DPR-0439	Rayonier	023	NATC-REQ1	Oppose In Part	Amend to align with the provisions of the NESPF and maybe to allow for earthworks associated with river crossings.
DPR-0441	Trustpower	119	NATC-REQ1	Support In Part	Amend as follows: ... 4. All earthworks and earthworks stockpiles <u>(excluding those undertaken for operation and maintenance of the Coleridge HEPS)</u> are to be

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					located at least 20m from the bank of any surface water body.

Analysis

HortNZ Submission

- 10.2 The HortNZ submission²¹ is contradictory in that their position is ‘oppose in part’, but the decision requested is to retain as notified. Horticulture NZ are welcome to clarify their position at the hearing.

Duplication with the Regional Plan and NESs

- 10.3 The FFNC²² submission seeks to either delete NATC-R1 to NATC-R4 or insert a new rule that would mean that NATC-R1 to NATC-R4 do not apply if a rule in a NES or RP addresses the location of an activity in a riparian margin. As stated in paragraph 3 of this report, there is little if any duplication of the RP. The matters the RP addresses are focused on a regional council’s functions (e.g. water quality), whereas the NATC provisions are focused on the natural character of riparian areas. While consents from two different authorities may be required for the same activity, the effects they are assessing are different.
- 10.4 Notwithstanding, as discussed in the next paragraph, there is merit in exempting earthworks for river crossings addressed under NESPF and therefore I recommend that this submission point is accepted in part.

Alignment with National Environmental Standard for Plantation Forestry (NESPF)

- 10.5 The Rayonier submission²³ seeks to align NATC-R1 with the provisions of the NESPF that permit river crossings. In respect of farming, the submission states that it may be preferable to allow for earthworks associated with river crossings to be permitted subject to conditions.
- 10.6 Subpart 4 of the NESPF contains thirteen regulations that address river crossings for plantation forestry that are intended to replace regional plan rules. The NESPF does not specifically address the adverse natural character effects of river crossing on the margins of rivers. However, Mr. Smith’s report suggests that compliance with its regulations inadvertently ensures natural character is retained. I agree with this approach. Forestry river crossing and their associated earthworks are generally: narrow; occur in a highly modified environment with less natural character; and are normally not visible to the public. While the NESPF does not specifically address natural character, its regulations provide sufficient certainty that there will not be any significant adverse effects on natural character. The NFL chapter provides additional certainty as it provides a suite of provisions to deal with activities in outstanding natural landscapes/features and visual amenity landscapes, that will help manage the adverse effects of earthworks in these areas. Accordingly, I recommend the submission point is accepted.

²¹ DPR-0353.158 HortNZ

²² DPR-0422.159 NCCF

²³ DPR-0439.023 Rayonier

Earthworks for Irrigation Infrastructure

- 10.7 Dairy Holdings Ltd²⁴, Craigmores Farming Services Ltd²⁵ and Rakaia Irrigation Ltd²⁶ submission are identical and seek to amend NATC-REQ1.4 to exclude earthworks in relation to the installation, operation or maintenance of irrigation infrastructure. First it is noted that EI-R27 and EI-REQ9 provides an exemption for community scale irrigation from complying with the NATC. However, it is noted that this rule only applies to community scale irrigation infrastructure operated by network utility operators and irrigation take off points. Therefore EI-R27 will not apply to earthwork required for most farm irrigation systems.
- 10.8 The advice from Mr. Smith in relation to this matter is that it would be inappropriate for earthworks associated with irrigation infrastructure for most farm irrigation systems to be a permitted activity due to its potential cumulative effect, which would result in a decline of natural character values. I agree with Mr. Smith's advice. Earthworks for irrigation infrastructure could include an irrigation canal located adjacent and running down the length of a water body, a large water storage pond in a riparian area, or the recontouring of a riparian area to accommodate an irrigator. There may be earthworks associated with irrigation infrastructure that have less adverse on natural character than these examples and therefore the submitter is welcome to provide some examples in the hearing. At this stage it is recommended the submission point is rejected.

Earthworks for Conservation Activity

- 10.9 The Council's submission²⁷ requests the amendment of NATC-REQ1.4 to exempt earthworks required for 'conservation activity'. I recommend this amendment be accepted as it will enable restoration of natural character and help implement NATC-P1.4 which seeks to enable opportunities to restore and rehabilitate the natural character of surface water bodies.
- 10.10 I consider this amendment will also address the ESAI²⁸ submission point that requests the amendment of NATC-REQ1 to introduce a new requirement, applicable in all zones in relation to the "*digging of holes for plant placement associated with Conservation Activity...*". As the Council's suggested wording is more concise, I recommend the ESAI submission is accepted in part only.
- 10.11 Similarly, the CRC²⁹ submission requests an exemption for earthworks associated with restoration and enhancement projects. However, there is sufficient scope within the PDP's defined term 'conservation activity' to include restoration and enhancement projects, and therefore there is no need to specifically state 'restoration and enhancement project' in the rule or rule requirement.
- 10.12 Accordingly, I recommend that the CRC submission is accepted in part.

Earthworks for Coleridge Hydro Electric Power Station

- 10.13 The Trustpower submission³⁰ requests the amendment of NATC-REQ1.4 to exclude earthworks undertaken for the operation and maintenance of the Coleridge Hydro Electric Power Station. The

²⁴ DPR-0372.068 DHL

²⁵ DPR-0207.033 SDC

²⁶ DPR-0390.054 RIL

²⁷ DPR-0207.033 SDC

²⁸ DPR-0212.051 ESAI

²⁹ DPR-0260.180 CRC

³⁰ DPR-0441.119 Trustpower

Coleridge Hydro Electric Power Station has been in operation since 1914 and provides electricity to the national grid. As such, they may have existing use rights for some aspects of their regular earthworks for operational and maintenance purposes. However, s. 10 RMA does have a 12-month time limit which I suspect would mean that some of their earthworks would not be covered by existing use rights and therefore there is a need to consider the matter more closely.

- 10.14 The NPSREG provides for operation and maintenance of hydroelectricity generating activities within district plans and acknowledges the practical constraints with these activities. Section 75 RMA requires the District Plan to give effect to national policy statements and therefore earthworks for the operation and maintenance of the Coleridge hydroelectric power station should be provided for. However, the policy of the NPSREG is broadly framed and does not specifically state how the operation and maintenance should be provided for. As such and given there is no certainty as to the extent and adverse effects of the earthworks involved operation and maintenance of the Coleridge Hydro Electric Power Station, I cannot recommend how these earthworks should be provided for at this stage. The submitter is welcome comment on the scope of earthworks required at the hearing and make suggestions regarding defining and limiting the scope of the earthworks that would be exempt. I therefore recommend that the submission point be rejected at this stage

Earthworks for Drainage Clearance Activities

- 10.15 ESAI³¹ requests the amendment of NATC-REQ1.4 to provide an exemption for earthworks associated with drainage clearance activities so that they can occur within the earthwork setbacks.
- 10.16 Drains are not included in the definition of 'surface waterbodies' and therefore earthworks associated with drainage clearance activities are not subject to NATC-R1 and NATC-REQ1. Therefore, this submission point can be rejected.
- 10.17 The submission also requests a new setback of 5m for earthwork stockpiles not associated with drain clearance activities on the basis that the setbacks are too large and inconsistent with the RP. The RP permits earthworks within 10m of surface waterbodies in hill and high-country areas and 5m in all other areas. However, these rules address regional council functions (e.g. protecting water quality) as opposed to natural character. Advice from Mr. Smith recommends the setbacks for earthworks stockpiles remain the same as earthworks stockpiles can adversely affect the natural character of surface water bodies. I consider this is reasonable and note that stockpiles not associated with drain clearance activities do not have a functional need to be located beside surface water bodies. I therefore recommend that this submission point be rejected.

Earthworks to mitigate effects of cultivation

- 10.18 The Horticulture NZ submission³² requests the amendment of NATC-REQ1.4 to provide an exemption from the setback requirements for earthworks *"associated with measures to mitigate potential environmental effects of cultivation; and managed in a certified Farm Environment Plan under the Canterbury Land and Water Regional Plan."*

³¹ DPR-0212.051 ESAI

³² DPR-0353.158 HortNZ

- 10.19 Their submission states that “Horticulture NZ Erosion and Sediment Control Guidelines sets out the good management practices that would be appropriate to avoid or mitigate potential adverse effects from sediment. This may include construction of a bund or a sediment trap depending on the nature of the site. However, in order for good management practices to be implemented effectively, earthworks would be required”. Horticulture NZ are concerned that a resource consent requirement would discourage this type of good practice.
- 10.20 While I am open to this idea in principle in the interests of integrated management, there is insufficient information about how Farm Environment Plans would manage any potential effects on natural character. Schedule 7 of the RP sets out the requirement for Farm Environment Plans. It does not state that natural character is a relevant consideration. Accordingly, there is uncertainty as to how natural character will be managed through the Farm Environment Plan process and whether it would achieve the objectives of the NATC. Horticulture NZ are welcome to provide more information on this at the hearing.
- 10.21 It may be appropriate to allow construction of a sediment bund or trap within setback from waterbodies. However, I do not think it would be appropriate to allow that without any requirements in relation to height/depth, setback from the waterbody, or clearance of indigenous vegetation. The advice from Mr Smith is to assess these earthworks on a case-by-case basis through a consent. Accordingly, while I remain open to the idea, at this stage I recommend the submission point is rejected.

Recommendation and amendments

- 10.22 I recommend, for the reasons given above, that the Hearings Panel amend NATC-REQ1.4.
- 10.23 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 10.24 The s32AA evaluation is likewise undertaken in a consolidated manner below following the assessment and recommendations on submissions.
- 10.25 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

Section 32AA evaluation

- 10.26 Only two amendments are recommended to NATC-REQ1, which are to exclude conservation activity and river crossing that comply with the NESPF. The following points evaluate these recommended changes under Section 32AA of the RMA.

Effectiveness and efficiency

- 10.27 Earthworks for conservation activity and river crossings that comply with the NESPF will occur efficiently without the need for resource consent and without the associated uncertainty and time and cost delays. The objectives of preserving natural character will still be effectively achieved as these activities are not considered a risk to natural character.

Costs and benefits

- 10.28 While there would be some minor benefits for requiring consent for these activities the benefits far outweigh the costs.

Risk of acting or not acting

- 10.29 There is some uncertainty around the nature and extent of earthworks required for these activities. However, these risks are acceptable and not sufficient to justify not providing an exemption for these activities. For instance, earthworks associated with conservation activity are likely to be minor or result in positive outcomes for natural character.

Conclusion as to the most appropriate option

- 10.30 The exemptions provided for earthworks are more effective and efficient than the notified version of the PDP in that they encourage conservation activity and avoid unnecessary consent requirements where costs outweigh benefits.

NATC-R2 and NATC-REQ2 (Setbacks for building and structures)

Submissions

- 10.31 Eight submissions were received in relation to NATC-R2, with two submissions supporting the rule or supporting it in part and six submissions either opposed or opposed in part. Nine submissions were received in relation to NATC-REQ2, with one submission supporting the rule requirement in part and the other eight submissions either being opposed or opposed in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	109	NATC-R2	Support	Retain as notified.
DPR-0353	HortNZ	165	NATC-R2	Oppose In Part	Retain as notified
DPR-0372	DHL	066	NATC-R2	Oppose In Part	Grant relief sought in relation to NATC-REQ2.
DPR-0388	Craigmore	031	NATC-R2	Oppose In Part	Grant relief sought in relation to NATC-REQ2.
DPR-0390	RIL	053	NATC-R2	Oppose In Part	Grant relief sought in relation to NATC-REQ2.
DPR-0422	NCCF	293	NATC-R2	Oppose	Delete NATC-R1, NATC-R2 and NATC-R3; or Insert a new rule as follows: <u>NATC – R5: Rules NATC R1-4 do not apply to any activity which is subject to a rule to manage its location within a riparian margin under either a national environmental standard or a regional rule.</u>
DPR-0372	DHL	FS068	NATC-R2	Support	Accept the submission.
DPR-0390	RIL	FS013	NATC-R2	Support	Accept the submission.
DPR-0439	Rayonier	024	NATC-R2	Oppose In Part	Amend to permit any structure which part of a river crossing.
DPR-0441	Trustpower	117	NATC-R2	Support In Part	Retain as notified provided that relief sought for NATC-REQ2 is accepted.
DPR-0142	NZ Pork	022	NATC-REQ2	Support In Part	Retain, subject to the necessary amendments being made to

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					exclude farrowing huts from being captured under the definition of a building.
DPR-0212	ESAI	052	NATC-REQ2	Oppose In Part	Amend as follows: 1. All buildings and structures excluding fence and signage posts shall comply with the following setbacks from any surface water body: a. <u>30m</u> 100m from the bank of any lake and any wetland adjoining a lake;
DPR-0345	PAR	020	NATC-REQ2	Oppose In Part	Amend NATC-REQ2 so that a 5m setback is reinstated for buildings within the Porters Village Base and that an exemption is included for bridges within the Village Base.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS805</i>	<i>NATC-REQ2</i>	<i>Oppose</i>	<i>Reject the submissions</i>
DPR-0353	HortNZ	159	NATC-REQ2	Oppose	Amend as follows: 1. All buildings and structures excluding fence and signage posts, <u>pump stations and artificial crop protection structures</u> shall comply with the following setbacks from any surface water body: a. 100 <u>20m</u> from the bank of any lake and any wetland adjoining a lake; b. 25 <u>20m</u> 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; <u>2. A pump station must be setback a minimum of 5m from any surface water body.</u>
<i>DPR-0381</i>	<i>CDL</i>	<i>FS062</i>	<i>NATC-REQ2</i>	<i>Support</i>	<i>Allow</i>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS471</i>	<i>NATC-REQ2</i>	<i>Oppose In Part</i>	<i>Reject or accept with appropriate restrictions in the Coastal environment, Outstanding natural feature and landscape areas.</i>
<i>DPR-0422</i>	<i>NCFE</i>	<i>FS041</i>	<i>NATC-REQ2</i>	<i>Support</i>	<i>Allow the submission point</i>
<i>DPR-0486</i>	<i>CDL</i>	<i>FS062</i>	<i>NATC-REQ2</i>	<i>Support</i>	<i>Allow</i>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0372	DHL	069	NATC-REQ2	Oppose In Part	Amend as follows: 1. All buildings and structures - excluding fence and signage posts <u>and irrigation infrastructure</u> - shall comply with the following setbacks from any surface water body: ...
DPR-0422	NCFE	FS102	NATC-REQ2	Support	Allow the submission point
DPR-0381	CDL	043	NATC-REQ2	Oppose In Part	Amend NATC0-REQ2.1 as follows: 1. All buildings and structures excluding fence and signage posts shall comply with the following setbacks from any surface water body. a. 100m <u>40m</u> from the bank of any lake and any wetland adjoining a lake;
DPR-0301	UWRG	FS065	NATC-REQ2	Oppose	Disallow
DPR-0407	Forest & Bird	FS550	NATC-REQ2	Oppose	Reject the submission
DPR-0388	Craigmore	034	NATC-REQ2	Oppose In Part	Amend as follows: 1. All buildings and structures - excluding fence and signage posts <u>and irrigation infrastructure</u> - shall comply with the following setbacks from any surface water body: ...
DPR-0390	RIL	055	NATC-REQ2	Oppose In Part	Amend NATC-REQ2 as follows 1. All buildings and structures - excluding fence and signage posts <u>and irrigation infrastructure</u> - shall comply with the following setbacks from any surface water body: a. 100m from the bank of any lake and any wetland adjoining a lake; b. 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; c. 20m from the bank of any surface water body listed in NATC-SCHED3; and

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					d. 10m from the bank of any other surface water body.
DPR-0441	Trustpower	120	NATC-REQ2	Oppose	Amend as follows: 1. All buildings and structures (excluding fences, and signage posts, <u>and activities associated with renewable electricity generation</u>) shall comply with the following setbacks from any surface water body: ...

Analysis

Exemption in relation to NES or Regional Rules

- 10.32 The FFNC submission³³ seeks to either delete rules NATC-R1, NATC-R2 and NATC-R3, or insert a new rule that would mean those rules would not apply to any activity which is subject to a rule to manage its location within a riparian margin under either a national environmental standard or a regional rule. This matter has been discussed above in relation to earthworks. While the NESPF inadvertently addresses some adverse effects in relation to natural character from earthworks, it does not address adverse effects on natural character from buildings and structures, nor does the Regional Plan. Therefore, I recommend that this submission point be rejected.

Exemptions for structures, buildings, and activities within the setbacks

- 10.33 Several submissions requested exemptions for structures, buildings, and activities within the minimum setbacks of NATC-REQ2. This includes farrow huts, pump stations, artificial crop protection structures, irrigation activities, activities associated with renewal electricity generation, any structure which is part of a river crossing and for bridges within the Porters Village Base. Horticulture NZ request a 5m setback for pump stations from any surface water body.
- 10.34 Mr Smith's report states that the setbacks identified in the PDP are appropriate, except the setback associated with irrigation ponds and river crossings, which could be exempt.
- 10.35 I agree that there should be no setback from irrigation ponds as they are not a natural water body and generally have very limited if any natural character. However, there is no need to amend NATC-R2 or NATC-REQ2 as this exemption is provided within the definition of 'surface water bodies'. Accordingly, I recommend that the submission point is rejected.
- 10.36 Similarly, I agree that structures associated with river crossings that are otherwise permitted under the NESPF should be exempt. As stated above in relation to earthworks, river crossings in plantation forestry generally occur in a highly modified environment with less natural character. Further, plantation forestry often obscures the view of river crossing structures, and river crossings, in my experience, have a very limited scale, only being a truck width wide and with a flat vertical profile. Accordingly, I recommend that the submission point from Rayonier Matariki Forest is accepted.

³³ DPR-0422.293 NCF

- 10.37 I also agree that the setbacks for buildings and structures are generally appropriate, as stated by Mr Smith, most new buildings and structures are a potential risk to the preservation of natural character. However, there is a large range in the scale and potential adverse effects of the structures the submitters have requested exemptions for and therefore a more nuanced approach should be considered. For instance, on the large end of the scale, there are large renewable electricity generating structures (e.g. a hydroelectric power scheme or a wind turbine), large crop protection structures, irrigation ponds and irrigation canals. On the smaller end of the scale are irrigation sheds, irrigators and associated intake pipes and farrow huts.
- 10.38 I consider that any of the larger structures should not be exempt as they have the potential to have significant adverse effects on natural character and therefore should go through a resource consent process to manage those potential adverse effects.
- 10.39 Of the smaller structures, traveling irrigators only temporarily travel through the area, therefore only have temporary adverse effects and accordingly could be exempt from the less sensitive NATC-SCHED 3 areas. Similarly, small pump sheds and irrigation structures (i.e. equal to or less than 10m² in area) could be exempt from the less sensitive NATC-SCHED 3 areas. However, I do not recommend they go closer than 10m as that runs the risk of structures being in the riparian area where adverse effects on natural character will likely be greater. This area often contains riparian vegetation that contributes to natural character that would need to be removed to make way for the structures. While farrow huts are small, they can be numerous and therefore I recommend they are not exempt.
- 10.40 Justification for this approach comes from the RPS³⁴ that focuses on avoiding significant adverse effects on natural character and protecting significant natural character values. Further, most of the water bodies in NATC-SCHED 3 are highly modified and not well frequented by the public. As such, I recommend that most of the submitters' requests for exempting certain structures are rejected, but some are accepted in part with a small amendment to NATC-REQ2.1c. allowing small pump sheds and irrigation structures less than 10m² and traveling irrigation to be located 10m from the bank of the surface water body.
- 10.41 While the proposed setbacks of NATC-REQ2 would require resource consent for bridges over the Porters Stream in the Porters Village Base, this is consistent with SKIZ-REQ6 that requires setbacks from the edge of the bed of the Porter Stream. Accordingly, no amendment is required.

Reduction of setback distances

- 10.42 Three submissions request the reduction of setback distances required by NATC-REQ2 for building and structures. The amended setback distances are compared with the setback distances of NATC-REQ2 below.

	Lake	Schedule 1 & 2	Schedule 3	Other
NATC-REQ2	100m	25m	20m	10m
ESAI	30m	-	-	-
HortNZ	20m	-	-	-
CDL	40m	-	-	-
PAR	-	-	-	5m

³⁴ Policy 10.3.1

- 10.43 The ESAI submission³⁵ considers the setback distances from the lake are excessive and that as lakes and wetlands are now part of residential developments, these rules would require numerous houses to gain resource consent. Horticulture NZ considers that the proposed setbacks distances will have significant implications on the productive capability of rural land. No landscape evidence is provided by the submitters to support their requests and demonstrate how the reduced setbacks would still achieve the policy and objective direction. It is likely that setbacks for irrigators and crop protection structures will have an adverse effect on the productive potential of land. However, it is noted that the proposed setbacks only apply to buildings and structures and fencing is excluded from the requirement. It is also noted that an exemption is proposed for travelling irrigators and pump sheds from NATC-REQ2.1c that will help mitigate any adverse effects on productivity. While it would be ideal to avoid all adverse effects on the productive potential of land, this has to be weighed against the statutory requirement to preserve natural character as a matter of national importance.
- 10.44 I do not understand why pasture areas adjacent to Lake Coleridge should be excluded from this rule as requested by Coleridge Downs. These comments appear to be made in relation to NATC-REQ3. Horticulture NZ and Coleridge Downs are welcome to clarify or elaborate on their submission point at the hearing.
- 10.45 There are some houses around Te Waihora/Lake Ellesmere that are located within setback requirements. Assuming they have been legally established, the houses within the proposed building setback will be protected from the need to obtain resource consent by existing use rights under s. 10 RMA. This includes maintenance and some scope for alternations and additions so long as *'the effects of the use are the same or similar character, intensity and scale to those that existed before the rule become operative or the proposed plan was notified'*³⁶. Mr. Smith's report state that it would be inappropriate for external alterations, additions, extensions, and minor structures to be permitted. However, this can largely be carried out under s.10 RMA. Accordingly, and in the interests of clarity and administrative efficiency, I consider it appropriate to enable the maintenance, alteration and minor additions/extensions to existing buildings/structures. Accordingly, I have recommended the amendment of NATC-REQ2 and that this submission point is therefore accepted in part.
- 10.46 PAR³⁷ requests a reduced setback distance of 5m for buildings and structures within the Porters Village Base to be consistent with SKIZ-REQ6. SKIZ-REQ6 provides a 15m building setback for the lower slopes sub-area and a 5m setback for the village base sub area. As SKIZ-REQ6 provides a setback for a specific setback area, as opposed to NATC-REQ2 that applies generically to the whole district, I consider it appropriate to apply the specific rather than the general provision. Mr. Smith agrees. Accordingly, I recommend that this submission point is accepted, and an exemption is recommended.

Recommendation and amendments

- 10.47 I recommend, for the reasons given above, that the Hearings Panel amend NATC-REQ2.

³⁵ DPR-0212.052 ESAI

³⁶ s. 10(1)(b)(ii) Resource Management Act 1991

³⁷ DPR-0345.020 PAR

- 10.48 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 10.49 The s32AA evaluation is likewise undertaken in a consolidated manner below following the assessment and recommendations on submissions.
- 10.50 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

Section 32AA evaluation

- 10.51 The following points evaluate the recommended changes under Section 32AA of the RMA.
- 10.52 In summary, the key recommended amendments are the exemptions to NATC-REQ2 for the following activities:
- maintenance and alterations to existing buildings/structures and additions/extension to existing buildings with a maximum floor area of 10m²;
 - structures associated with river crossings that comply with the NESPF.

Effectiveness and efficiency

- 10.53 The recommended amendments will not decrease the effectiveness of NATC-REQ2 in targeting activities that are at risk of adversely effecting natural character and will ensure these activities can be conducted without the need and costs associated with resource consents.

Costs and benefits

- 10.54 The amendments will minimise costs and uncertainty on building and forestry owners in applying for consents.

Risk of acting or not acting

- 10.55 While there is the risk of a building, or structure associated with river crossing, adversely affecting natural character, this risk and therefore the risk of acting is considered to be low.

Conclusion as to the most appropriate option

- 10.56 I consider the proposed amendments are more appropriate than the notified version of the PDP as they will not decrease the effectiveness of the rules and will be more efficient in minimising unnecessary costs.

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

Submissions

- 10.57 Six submissions were received in relation to NATC-R3, with two submissions in support or support in part and three submissions in opposition or opposition in part. Eight submissions were received in relation to NATC-REQ3, with five in opposition or opposition in part and three in support or support in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0212	ESAI	053	NATC-R3	Oppose In Part	Amend as follows: Horticultural Planting , Woodlot and Shelterbelt planting

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	110	NATC-R3	Support	Retain as notified.
DPR-0353	HortNZ	156	NATC-R3	Oppose In Part	Retain as notified
DPR-0372	DHL	067	NATC-R3	Support In Part	Retain, provided the submitters amendments to NATC-REQ3 and other relief sought is granted.
DPR-0388	Craigmore	032	NATC-R3	Support In Part	Grant relief sought in relation to NATC-REQ3.
DPR-0422	NCFF	294	NATC-R3	Oppose	Delete NATC-R1, NATC-R2 and NATC-R3; or Insert a new rule as follows: <u>NATC – R5: Rules NATC R1-4 do not apply to any activity which is subject to a rule to manage its location within a riparian margin under either a national environmental standard or a regional rule.</u>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS157</i>	<i>NATC-R3</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0212	ESAI	054	NATC-REQ3	Oppose	Amend as follows: NATC-REQ3 Setbacks from Surface Water Bodies – Vegetation <u>Woodlot and Shelterbelt Planting</u> 1. Vegetation <u>Woodlot and shelterbelt plantings that are not the replacement in the same location of existing woodlot and shelterbelt plantings,</u> shall comply with the following setbacks from any surface water body;
DPR-0345	PAR	021	NATC-REQ3	Oppose In Part	Remove SKIZ from NATC-REQ3
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS806</i>	<i>NATC-REQ3</i>	<i>Oppose</i>	<i>Reject the submissions</i>
DPR-0353	HortNZ	160	NATC-REQ3	Oppose	Delete as notified.
DPR-0372	DHL	070	NATC-REQ3	Support In Part	Amend as follows: 1. Vegetation plantings shall comply with the following setbacks from any surface water body: ... <u>Planting of indigenous vegetation is excluded.</u>
<i>DPR-0422</i>	<i>NCFF</i>	<i>FS103</i>	<i>NATC-REQ3</i>	<i>Support</i>	<i>Allow the submission point</i>
DPR-0379	Jill Thomson	042	NATC-REQ3	Oppose	Delete 'Waikirikiri/Selwyn River From Chamberlains Ford to Selwyn Lake Road' from NATC-SCHED2.
DPR-0388	Craigmore	035	NATC-REQ3	Support In Part	Amend as follows: 1. Vegetation plantings shall comply with the following setbacks from

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					any surface water body: ... <u>Planting of indigenous vegetation is excluded.</u>
DPR-0427	DoC	047	NATC-REQ3	Support	Retain as notified.
DPR-0301	UWRG	FS189	NATC-REQ3	Support	Allow in full
DPR-0407	Forest & Bird	FS213	NATC-REQ3	Support	Accept the submission
DPR-0439	Rayonier	025	NATC-REQ3	Oppose In Part	Amend to be clear does not apply to Plantation Forestry Activities of afforestation or replanting.

Analysis

Exemption in relation to NES or Regional Rules

- 10.58 The FFNC submission³⁸ point is the same as their submission on the other rules of NATC and has been discussed above in paragraph 8.2 and recommended to be rejected.

Horticultural plantings

- 10.59 The Ellesmere Sustainable Agriculture³⁹ submission seeks to remove ‘horticultural plantings’ from NATC-R3. Their rationale for this request is that NATC-R3 uses the words ‘*horticultural plantings, woodlots and shelterbelts*’ which is not consistent with NATC-REQ3 that uses the words ‘*vegetative plantings*’. I agree that there is inconsistency between NATC-R3 and NATC-REQ3 that should be addressed. However, I disagree that the words ‘horticultural plantings’ should be deleted. Mr. Smith’s report considers it would be inappropriate if the term ‘horticultural plantings’ were removed from NATC-R3 due to the individual and cumulative adverse effects that allowing horticultural plantings within the setbacks would have on natural character. I agree with that position and therefore recommend that aspect of the submission point that seeks to remove ‘horticultural plantings’ from NATC-R3 be rejected. However, as the issue raised in the submission point is the alignment between NATC-R3 and NATC-REQ3, I consider that it should be amended to address the inconsistency. I recommend NATC-REQ3 be amended to be consistent with NATC-R3 so that it refers to ‘*horticultural plantings, woodlots and shelterbelts*’. Accordingly, I recommend this submission point is accepted in part.
- 10.60 The Hort NZ submission⁴⁰ seeks to delete NATC-REQ3 on the basis that the s.32 report lacks justification for the 10m setback; the setback reduces productive land that is in short supply; and that management practices (as recommended in Hort NZ good management guidelines) can address sediment and erosion effects. However, the purpose of the setbacks is not to deal with sedimentation or erosion but natural character. The evidence provided in Mr Smith’s report

³⁸ DPR-0422.294 NCCF

³⁹ DPR-0212.054 ESAI

⁴⁰ DPR-0353.160 HortNZ

provides an evidential basis for the setbacks. Accordingly, I recommend that this submission point be rejected.

Planting of indigenous vegetation

- 10.61 DHL⁴¹ and the Craigmores submissions⁴² seek to exclude the planting of indigenous vegetation from NATC-REQ3. The rationale for this is to enable the restoration of riparian areas. I agree with the outcome sought. However, I consider this submission can be rejected. This is on the basis that the wording recommended above for NATC-REQ3 would mean the setbacks only apply to *'horticultural plantings, woodlots and shelterbelts'*, which would not include the planting of indigenous species for restoration purposes.

Where the provisions apply

- 10.62 The submission from J Thomson⁴³ requests the deletion of *'Waikirikiri/Selwyn River From Chamberlains Ford to Selwyn Lake Road'* from NATC-SCHED2 on the basis that CRC are encouraging them to carry out riparian plantings in this area. As stated in the preceding paragraph, the wording recommended above for NATC-REQ3 would mean the setbacks only apply to *'horticultural plantings, woodlots and shelterbelts'*, which would not include the planting of indigenous species for restoration purposes. Accordingly, this submission can also be rejected.
- 10.63 The PAR submission⁴⁴ requests the deletion of SKIZ from NATC-REQ3 on the basis that it duplicates their existing resource consent. Again, the amendments to NATC-REQ3 recommended above will remedy that issue. Further, the NATC-REQ3 will not override their existing resource consent. Therefore, this submission point can be rejected.
- 10.64 It is noted there is an error with the relationship between NATC-R3 and NATC-REQ3 in that NATC-R2 only refers to GRUZ, while NATC-REQ3 refers to a number of zones being: GRUZ, GRAZ, MPZ, SKIZ and TEZ. I suspect NATC-R3 was supposed to refer to these other zones as they have been specifically listed. However, with the exception of the PAR submission⁴⁵ 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. As stated above, the only options to deal with this is to request the submitters comments of the inclusion of GRUZ, GRAZ, MPZ, SKIZ and TEZ in NATC-R3, or for Council to address this in through a plan change.

Non-replacement plantings

- 10.65 The ESAI submission⁴⁶ seeks to amend NATC-REQ3 for *'Woodlot and shelterbelt plantings that are not the replacement in the same location of existing woodlot and shelterbelt plantings'*. This amendment seeks to clarify the rule only applies to woodlots and shelterbelt that are not being replaced in the same location. Replacement planting would potentially have existing use rights under s.10 RMA. However, the amendment goes further than s.10 RMA, which would require the

⁴¹ DPR-0372.070 DHL

⁴² DPR-0388.035 Craigmores

⁴³ DPR0379.042 Jill Thomson

⁴⁴ DPR-0345.021 PAR

⁴⁵ DPR-0345.021 PAR

⁴⁶ DPR-0212.054 ESAI

adverse effects of the plantings to be of the same or similar character, intensity, and scale to that which previously existed. S. 10 RMA would also require the plantings to be replanted within 12 months of being removed. I recommend the requested amendment is rejected on the basis that setbacks required in NATC-REQ3 are not onerous and that s. 10 RMA adequately deals with the situation.

Plantation Forestry Activities of afforestation or replanting

- 10.66 The submission from Rayonier⁴⁷ states that NATC-REQ3 is “*not clear if this provision would apply to plantation forestry activities of afforestation or replanting*”. The revised wording recommended above for NATC-REQ3 would clarify that it only applies to ‘*horticultural plantings, woodlots and shelterbelts*’. The PDP’s definition of ‘woodlots’ excludes plantation forestry. Accordingly, I recommend that the submission point be rejected.

Recommendation and amendments

- 10.67 I recommend, for the reasons given above, that the Hearings Panel amend NATC-REQ3.
- 10.68 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 10.69 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NATC-R4 and NATC-REQ4 (Setbacks for signs)

Introduction

- 10.70 NATC-R4 permits a range of standard signage (official, identification, directional, information, recreational and health and safety etc) within the setbacks of surface water bodies. As written NATC-R4, is not subject to NATC-REQ4 that provides different setbacks for signs from different surface water bodies. Departing from the way the other rule requirements of NATC interrelate with the rules, NATC-REQ4 only applies to activities that are not listed under NATC-R4. The effect of this is that the signage listed under NATC-R4 is permitted and is not subject to setbacks, but any other signage is subject to the setbacks of NATC-REQ4.

Submissions

- 10.71 Four submissions were received in relation to NATC-R4, with three submissions in support and one submission opposed in part.
- 10.72 Three submissions were received in relation to NAT-REQ4, with two submissions opposing in part and one submission supporting in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	111	NATC-R4	Support	Retain as notified.
DPR-0353	HortNZ	157	NATC-R4	Oppose In Part	Retain as notified
DPR-0375	Waka Kotahi	096	NATC-R4	Support	Retain as notified.

⁴⁷ DPR-0439.025 Rayonier

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0441	Trustpower	118	NATC-R4	Support	Retain as notified provided that relief sought for NATC-REQ4 is accepted.
DPR-0212	ESAI	055	NATC-REQ4	Oppose In Part	Insert new provision to NATC-REQ4.1 to read: <u>X Signs containing danger warnings, historical, conservation and site information shall not be located within 5m from the bank of any water surface body.</u>
DPR-0372	DHL	FS021	NATC-REQ4	Support	Accept the submission.
DPR-0353	HortNZ	161	NATC-REQ4	Oppose In Part	Amend as follows: 1. 2. <u>Except that signs relating to the notification of agrichemical spraying or other risks to the health and safety of people and animals shall be permitted within 5m from the bank of any surface water body.</u>
DPR-0422	NCFE	FS042	NATC-REQ4	Support	Allow the submission point
DPR-0441	Trustpower	121	NATC-REQ4	Support In Part	Amend as follows: 1. 20m of the bank of any surface water body listed in NATC-SCHED1 or NATC-SCHED2 or NATC-SCHED3, <u>excluding lakes, except where the signage is required for public safety reasons;</u> and ...

Analysis

Exemption to NATC-REQ4

- 10.73 The ESAI submission⁴⁸ seeks an amendment to NATC-REQ4.1 for “signs containing danger warnings, historical, conservation and site information shall not be located within 5m from the bank of any water surface body” on the basis that surface water bodies require signage in close proximity to be effective. I agree that historical and conservation information is not specifically addressed in NATC-REQ4 and therefore recommend that this submission point is accepted in part and NATC-REQ4 be amended accordingly.
- 10.74 The Hort NZ submission⁴⁹ seeks an amendment to NATC-REQ4 to provide for “signs relating to the notification of agrichemical spraying or other risks to the health and safety of people and animals shall be permitted within 5m from the bank of any surface water body.” I note that NATC-R4 provides for these signs as a permitted activity as they would be included as signs for visitor or worker health and safety. As noted above, such signs are not subject to compliance with NATC-

⁴⁸ DPR-0212.055 ESAI

⁴⁹ DPR-0353.161 HortNZ

REQ4. The same applies to the Trustpower submission that seeks an exemption for 'signage required for public safety reasons'.

- 10.75 I recommend clarifying the conjunctions in NATC-R4 to make it clear that the matters listed are exclusive of each other with the exception of official signs. Due to the minor nature of this amendment, I recommend it is made by the Council under clause 16(2), Schedule 1 RMA.

Recommendation and amendments

- 10.76 I recommend, for the reasons given above, that the Hearings Panel amend NATC-R4.
- 10.77 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 10.78 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11 Schedules

NATC-SCHED2 and NATC-SCHED3

Introduction

- 11.1 NATC-SCHED2 and NATC-SCHED3 provide two lists of water bodies adjoining Rural zones. Both schedules are referenced by the NATC rule requirements, with the distinction between the two schedules being the size of the setbacks from the water bodies which apply.

Submissions

- 11.2 Two submissions were received in relation to NATC-SCHED2 and one in relation to NATC-SCHED3.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0032	CCC	021	NATC-SCHED2	Support	Retain as notified
DPR-0353	HortNZ	162	NATC-SCHED2	Oppose In Part	Not specified
DPR-0353	HortNZ	163	NATC-SCHED3	Oppose In Part	Not specified

Analysis

- 11.3 The CCC⁵⁰ submission supports classification of Te Waihora/Lake Ellesmere as a waterbody with significant natural values. The HortNZ⁵¹ submission, which is identical for both NATC-SCHED2 and NATC-SCHED3 considers there will be significant reductions in productive land because of the water bodies being listed in this schedule and subsequent increased setbacks. However, the latter does not request any relief, or provide any evidence to support this claim and therefore I consider that it should be rejected.

Recommendations and amendments

- 11.4 I recommend, for the reasons given above, that the Hearings Panel does not amend NATC-SCHED2 or NATC-SCHED3.
- 11.5 The amendments recommended are set out in a consolidated manner in **Appendix 2**.

⁵⁰ DPR-0032.021 CCC

⁵¹ DPR-0353.0162 HortNZ

- 11.6 I recommend that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NATC-SCHED4

Introduction

- 11.7 NATC-SCHED4 provides a list of natural character qualities of surface water bodies.

Submissions

- 11.8 Five submissions were received in relation to NATC-SCHED4, with four submissions in support or support in part and one submission neither in support nor opposed.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0032	CCC	022	NATC-SCHED4	Support	Retain as notified
DPR-0372	DHL	072	NATC-SCHED4	Neither Support Nor Oppose	Retain as notified
DPR-0407	Forest & Bird	042	NATC-SCHED4	Support In Part	Amend as follows: Recognise that the following natural elements, patterns, processes and experiential qualities contribute to the natural character qualities of surface water bodies: ... 4. <u>indigenous</u> biodiversity; ...
DPR-0301	UWRG	FS120	NATC-SCHED4	Support	Allow in full
DPR-0441	Trustpower	FS093	NATC-SCHED4	Support	Accept
DPR-0427	DoC	049	NATC-SCHED4	Support	Retain as notified.
DPR-0301	UWRG	FS191	NATC-SCHED4	Support	Allow in full
DPR-0407	Forest & Bird	FS215	NATC-SCHED4	Support	Accept the submission
DPR-0441	Trustpower	122	NATC-SCHED4	Support	Retain as notified

Analysis

- 11.9 The Forest and Bird submission⁵² requests the word 'indigenous' is inserted before the word 'biodiversity' in relation to item 4 of NATC-SCHED4. Their submission does not provide any further comment in relation to this request.
- 11.10 The RMA does not provide a definition of natural character. The NZ Coastal Policy statement does but does not mention biodiversity specifically. Section 10.3.2 of the CRPS does provide comment

⁵² DPR-0407.042 Forest & Bird

on what natural character consists of and states that it does include 'natural ecosystems and biodiversity'. It does not specifically state indigenous biodiversity.

- 11.11 Mr. Smith's report suggest that exotic biodiversity can contribute to natural character and therefore should be considered as part of natural character. However, it goes on to suggest the extent of indigenous biodiversity should be emphasized in NATC-SCHED4. I agree as riparian areas with more indigenous biodiversity will likely be perceived as having higher natural character.
- 11.12 With these matters in mind, I consider that 'biodiversity' should remain, but the extent of indigenous biodiversity should be emphasized in NATC-SCHED4. The submission is therefore recommended to be accepted in part.

Recommendations and amendments

- 11.13 I recommend, for the reasons given above, that the Hearings Panel Amend NATC SCHED4.4.
- 11.14 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 11.15 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

12 New Provisions

Introduction

- 12.1 This section addresses the new provisions requested by submitters.

Submissions

- 12.2 Three submissions were received suggesting new provision are added to the NATC chapter, with all submissions in support or support in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0142	NZ Pork	074	New	Support In Part	Insert specific rule structure that provides relief from rules for buildings as they might apply to farrowing huts.
DPR-0168	Paula Godfrey	001	New	Support In Part	Amend to include an objective of improving the natural character of surface water bodies (not simply 'preserve').
DPR-0212	ESAI	FS072	New	Oppose	Disallow in full
DPR-0422	NCFF	FS141	New	Oppose	Disallow the submission point.
DPR-0472	Gourlie	FS001	New	Oppose In Part	ECAN rules are sufficient. No further need for council involvement & potential confusion.
DPR-0168	Paula Godfrey	007	New	Support In Part	Amend to include a timeframe for natural surface water bodies to have a grazing setback from stock.
DPR-0212	ESAI	FS073	New	Oppose	Disallow in full
DPR-0372	DHL	FS009	New	Oppose	Reject the submission.
DPR-0422	NCFF	FS142	New	Oppose	Disallow the submission point.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0472	Gourlie	FS002	New	Oppose In Part	ECAN rules are sufficient. No further need for council involvement & potential confusion.
DPR-0168	Paula Godfrey	008	New	Support In Part	Amend to include a setback for stock, with a specified timeframe to achieve this setback.
DPR-0212	ESAI	FS074	New	Oppose	Disallow in full
DPR-0372	DHL	FS010	New	Oppose	Reject the submission.
DPR-0422	NCFF	FS143	New	Oppose	Disallow the submission point.
DPR-0472	Gourlie	FS003	New	Oppose In Part	ECAN rules are sufficient. No further need for council involvement & potential confusion.
DPR-0212	ESAI	049	New	Support	Insert a new rule to the NATC Chapter to explicitly provide for conservation activities as a permitted activity in Natural Character Management Overlays.
DPR-0372	DHL	FS019	New	Support	Accept the submission.

Analysis

Farrow Huts

- 12.3 The NZ Pork submission⁵³ requests a specific rule structure that provides relief from rules for buildings as they might apply to farrow huts. While farrow huts are small, there can be large numbers of them, which increases their potential adverse effects on natural character. As farrow huts are normally setup in rows with space between the rows, it should not be an unreasonable requirement to set them back from surface water bodies. The land between the farrow huts and the surface water body can still be used for grazing, thereby lessening the economic impact. With these matters in mind, I recommend there is not a specific rule structure that provides for relief for farrow huts from the building setback requirements. Mr. Smith agrees and considers farrow huts should be subject to the setbacks requirements. Accordingly, I recommend that the submission point be rejected.

Objective to improve natural character

- 12.4 The submission from P Godfrey⁵⁴ requests a new objective to improve the natural character of surface water bodies (not just preserve). Section 6(a) RMA does not mention improvement of natural character only preservation and protection, stating:

“The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:” [emphasis added]

⁵³ DPR-0142.074 NZ Pork

⁵⁴ DPR-0168.001 P Godfrey

- 12.5 Notwithstanding, Policy 10.3.2 of the CRPS seeks to, where appropriate, maintain and/or enhance natural character of river and lake beds and their margins stating:

“Protection and enhancement of areas of river and lake beds and their riparian zones

To preserve the natural character of river and lake beds and their margins and protect them from inappropriate subdivision, use and development, and where appropriate to maintain and/or enhance areas of river and lake beds and their margins and riparian zones where:

1. *they exist in a degraded state and enhancement will achieve long-term improvement in those values;*
2. *they have ecological values for which protection and/or enhancement will assist in the establishment or re-establishment of indigenous biodiversity or ecosystems, particularly for ecosystems that are threatened or unrepresented in protected areas; Regional Policy Statement / Chapter 10 - Beds of Rivers and Lakes and their Riparian Zones Environment Canterbury Page 159*
3. *they have existing significant trout or salmon habitat;*
4. *maintenance and/or enhancement will improve or establish connections between habitats and create corridors for indigenous species and trout and salmon and their movement between areas;*
5. *riparian zones provide a buffer from activities that may adversely affect bed values;*
6. *opportunities exist to create habitat corridors for plants and animals; or*
7. *riparian zones provide spawning or other significant habitats for at risk or threatened species, such as inanga or Canterbury mudfish.” [emphasis added]*

- 12.6 Method 4 of Policy 10.3.2 sets out how the above policy will be implemented. It states territorial authorities will:

“Set out objectives and policies, and may include methods in their district plans to control the effects of the subdivision, use, development, or protection of land in riparian zones for protecting indigenous biodiversity and preserving natural character and protect them from inappropriate subdivision, use and in particular, riparian zones should be a priority for enhancement or environmental mitigation where development, subdivision or changes in use occur”. [Emphasis added]

- 12.7 As section 75(3) RMA requires a district plan to give effect to any regional policy statement, the inclusion of an objective to enhance riparian zones is required. Accordingly, I consider that the submission point should be accepted.

- 12.8 It is noted that policy NATC-1.4 enables opportunities to restore and rehabilitate natural character of margins of surface water bodies but does not go as far as requiring enhancement where development, subdivision or changes occur as per method 4 of the CRPS, or prioritizing enhancement as per policy 10.3.2. A new policy would be required to fully give effect to the Regional Policy Statement. This has not been specifically requested and therefore raises a question of scope the Hearings Panel should specifically consider. I consider that it is within the scope as a

consequential amendment resulting from a request for a new objective. It is also required to give effect to the RPS that seeks to 'prioritise enhancement or environmental mitigation where development, subdivision or changes in use occur'. Therefore, I have recommended an amendment to NATC-P1.

Timeframe for stock exclusion

- 12.9 The submission from P Godfrey⁵⁵ also requests a timeframe for natural surface water bodies to have a grazing setback for stock. Unfortunately, it would be ineffective for a district plan rule to provide for this considering that almost all areas would have existing use rights to continue grazing. Notwithstanding, while it would not make sense for a district plan to provide such a rule, it is noted the Resource Management (Stock Exclusion) Regulations 2020 and the LWRP excludes stock from surface water bodies despite any existing use right and therefore achieves the submitters point. Accordingly, I recommend that this submission points be rejected.

Conservation activities

- 12.10 The Ellesmere Sustainable Agriculture submission⁵⁶ requests a new rule in the NATC Chapter to explicitly provide for conservation activities as a permitted activity. However, I do not think this is necessary given the amendments proposed to the earthworks rule requirement NATC-REQ1 that provides an exemption for earthworks associated with conservation activities. It is also noted that the planting of indigenous vegetation is provided for as a permitted activity.

Recommendations and amendments

- 12.11 I recommend, for the reasons given above, that the Hearings Panel amend NATC-01 and NATC-P1.
- 12.12 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 12.13 The s32AA evaluation is likewise undertaken in a consolidated manner below following the assessment and recommendations on submissions.
- 12.14 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

Section 32AA evaluation

- 12.15 The following points evaluate the recommended changes under Section 32AA of the RMA.

Effectiveness and efficiency

- 12.16 The amendment to NATC-P1 will ensure that enhancement or environmental mitigation is prioritised where development, subdivision or changes in use occur. This will be effective in achieving that part of the revised objective NATC-01 that seeks to enhance natural character values. It will be efficient in that it will only be considered when the setbacks provided by the rule requirements are breached and any requirements for enhancement are proportionate to the scale of the development and any adverse effects created.

⁵⁵ DPR-0168.007 P Godfrey

⁵⁶ DPR-0212.049 ESAI

Costs and benefits

- 12.17 The benefits would include the enhancement of natural character values. Applicants will carry the costs associated with the enhancement of natural character values if required by a resource consent. However, this will only occur when the setback prescribed in the rule requirement are breached and can therefore be readily avoided. However, as enhancement would be proportionate to the scale and adverse effects of the development, any costs on applicant would be appropriate.

Risk of acting or not acting

- 12.18 The risk of not acting is that enhancement will not be required. The risk of acting is that there is some uncertainty about how these amendments will be implemented. However, I considered there is sufficient guidance within the policy to ensure the risks are minimal.

Appropriateness of the amendments to the objectives

- 12.19 The amendment to objective NATC-O1 is appropriate in that it provides for the enhancement of natural character values that will assist with the overall preservation of the natural character values of the district's surface waterbodies. This will help achieve section 6(a) RMA. The enhancement of the margins of surface waterbodies will also help protect a natural resource that safeguards the life supporting capacity of water and ecosystems and provides an opportunity to remedy adverse effects and therefore aligns with the purpose of the RMA.

Conclusion as to the most appropriate option

- 12.20 The proposed changes are considered the most appropriate option to achieve the purpose of the RMA. The alternative is to not require enhancement of natural values which would not align with the purpose of the RMA.

13 Non-notification statements

Introduction

- 13.1 This section addresses the submissions received in relation to the non-notification rule NAT-REQ1.10 that provides that any application received under NAT-REQ1 (earthworks and earthwork stockpile setbacks) shall not be notified and the written approval of any party will not be required.

Submissions

- 13.2 Four submissions were received in relation to NAT-REQ1.10.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0358	RWRL	406	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0032	CCC	FS192	Non-notification clauses	Oppose In Part	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0298	Trices Road Group	FS923	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS044	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS324	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS117	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS044	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS013	Non-notification clauses	Support	Accept submission
DPR-0363	IRHL	431	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS226	Non-notification clauses	Oppose In Part	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0298	Trices Road Group	FS957	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS147	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS325	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS151	Non-notification clauses	Support	Not Specified

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0422	NCFE	FS204	Non-notification clauses	Support In Part	Allow the submission on controlled activity. Disallow the submission point that notification is not required for all restricted discretionary applications.
DPR-0453	LPC	FS145	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS047	Non-notification clauses	Support	Accept submission
DPR-0374	RIHL	477	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS264	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road Group	FS991	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS078	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS326	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS185	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS078	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS081	Non-notification clauses	Support	Accept submission
DPR-0384	RIDL	510	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of</u>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					<u>effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS299	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road Group	FS1018	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS111	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS327	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS219	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS111	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS115	Non-notification clauses	Support	Accept the submission

Analysis

- 13.3 All the submissions in relation to NATC-REQ1.10⁵⁷ requested the following words, or words to the same effect for all controlled and restricted discretionary activity rules: *“Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion”*. I interpret the submission point to be seeking a non-notification rules for all NATC restricted discretionary activity rules. I do not support these amendments. There is a wide range in the scope of activities that could occur within the setbacks and a range of natural character values. Further, the preservation of natural character is a matter of national importance under section 6 RMA and is therefore a relevant public interest, which could, depending on the situation, require public or limited notification. Accordingly, I consider there could be instances when public or limited notification is warranted. Notwithstanding, I recommended that clarity could be provided in NATC-REQ10 that applications will also not be ‘limited notified’, rather than referring only to *“the written approval of any party”* not being required. Accordingly, I recommend that the submission point be accepted in part.

⁵⁷ DPR-0358.406 RWRL, DPR-0363.431 IRHL, DPR-0374.477 RIHL and DPR-0384.510 RIDL

Recommendations and amendments

- 13.4 I recommend, for the reasons given above, that the Hearings Panel amend NATC-REQ1.10.
- 13.5 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 13.6 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

14 Subdivision – SUB-R22

Introduction

- 14.1 SUB-R22 provides that subdivision where any sites adjoin a surface water body is a restricted discretionary activity.

Submissions

- 14.2 Seven submissions were received in relation to SUB-R22, which were all in support or support in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	126	SUB-R22	Support	Retain as notified.
DPR-0157	The Williams	FS921	SUB-R22	Oppose In Part	Reject in part the amendments sought.
DPR-0209	Manmeet Singh	FS1069	SUB-R22	Oppose	Reject the submission in part.
DPR-0298	Trices Road Group	FS031	SUB-R22	Oppose In Part	Reject submission
DPR-0461	Dunweavin	FS410	SUB-R22	Oppose	Reject submission
DPR-0492	Kevler	FS749	SUB-R22	Oppose	Reject Submission
DPR-0493	Gallina & Heinz-Wattie	FS047	SUB-R22	Oppose	Reject submission in part being the amendments sought and the notified provisions sought to be retained
DPR-0358	RWRL	224	SUB-R22	Support In Part	Amend to insert a non-notification clause.
DPR-0157	The Williams	FS426	SUB-R22	Support In Part	Accept the submission in part
DPR-0209	Manmeet Singh	FS513	SUB-R22	Support In Part	Accept the submission in part
DPR-0298	Trices Road Group	FS470	SUB-R22	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS517	SUB-R22	Support In Part	Accept submission in part
DPR-0492	Kevler	FS828	SUB-R22	Support	Accept submission in part
DPR-0493	Gallina & Heinz-Wattie	FS493	SUB-R22	Support In Part	Accept the submission in part.
DPR-0363	IRHL	213	SUB-R22	Support In Part	Amend the provision to insert a non-notification clause.
DPR-0157	The Williams	FS758	SUB-R22	Support In Part	Accept the submission in part

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0209	Manmeet Singh	FS684	SUB-R22	Support In Part	Accept the submission in part
DPR-0298	Trices Road Group	FS637	SUB-R22	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS677	SUB-R22	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO
DPR-0492	Kevler	FS292	SUB-R22	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0374	RIHL	219	SUB-R22	Support In Part	Amend the provision to insert a non-notification clause.
DPR-0157	The Williams	FS573	SUB-R22	Support In Part	Accept the submission in part
DPR-0209	Manmeet Singh	FS940	SUB-R22	Support In Part	Accept the submission in part
DPR-0298	Trices Road Group	FS788	SUB-R22	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS820	SUB-R22	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0492	Kevler	FS136	SUB-R22	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0493	Gallina & Heinz-Wattie	FS697	SUB-R22	Support In Part	Accept the submission in part.
DPR-0384	RIDL	231	SUB-R22	Support In Part	Amend the provision to insert a non-notification clause.
DPR-0414	Kāinga Ora	116	SUB-R22	Support	Retain as notified
DPR-0157	The Williams	FS182	SUB-R22	Oppose In Part	Reject the submission in part
DPR-0209	Manmeet Singh	FS372	SUB-R22	Oppose In Part	Reject the submission in part
DPR-0298	Trices Road Group	FS142	SUB-R22	Oppose In Part	Reject submission
DPR-0461	Dunweavin	FS169	SUB-R22	Oppose In Part	Reject submission
DPR-0492	Kevler	FS538	SUB-R22	Oppose In Part	Reject submission points in part
DPR-0493	Gallina & Heinz-Wattie	FS162	SUB-R22	Oppose In Part	Reject the submission points in part.
DPR-0565	Shelley St	FS053	SUB-R22	Support In Part	Support the submission subject to amendments to the MDRZ boundary at Rolleston to include properties on the east side of George Street including no. 30 George Street & any other amendments/changes to the relevant provisions as are

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					<i>consistent with enabling our MDH proposal.</i>
DPR-0422	NCCF	211	SUB-R22	Support In Part	Amend as follows: 1. Subdivision where any site adjoins any surface water body <u>listed in NATC-SCHED1 and NZTC-SCHED2</u> . This rule does not apply to any subdivision under <u>SUB-R12 or SUB-R15</u> . 2. a. SASM MAT3 Ngā Wai.
DPR-0407	Forest & Bird	FS135	SUB-R22	Oppose	<i>Reject the submission</i>

Analysis

Non-Notification Clause

- 14.3 I consider that the submissions⁵⁸ requesting a non-notification rule can be rejected. There are two reasons for this. First, the configuration of allotments and their associated use may affect natural character despite the rules in NATC. For instance, the subdivision of allotments along a stream could provide for few allotments or many depending on their configuration, which could subsequently have significantly different adverse effects on natural character. Second, the preservation of natural character is a matter of national importance under section 6 RMA and is therefore a relevant public interest, which could, depending on the situation, require public or limited notification. Although it is expected that public or limited notification of applications that require consent under this rule would be rare, it is not appropriate to foreclose that opportunity.

Specifically referencing NATC-SCHED1 and NATC-SCHED2

- 14.4 The FFNC⁵⁹ submission requests that NATC-SCHED1 and NATC-SCHED2 are referred to in SUB-R22, rather than the rule applying to any surface water body. However, NATC-SCHED1 and NATC-SCHED2 only lists a limited amount of the district's water bodies. There are numerous water bodies not referred to which would have high natural character.
- 14.5 It is acknowledged that the use of the term '*any surface water bodies*' will mean that any rural subdivision containing a surface water body will require a restricted discretionary activity consent. It is anticipated that this will capture a significant number of rural subdivisions. However, given that resource consent is required for subdivision anyway and given that, in my view, most subdivisions that adjoin surface water bodies will not require a landscape assessment, the efficiency of this rule is not a major issue.
- 14.6 Considering the large number of surface water bodies that would not be captured by the suggested amendment and considering that natural character is a matter of national importance under section 6 RMA, I recommend that the rule remain unchanged, and the submission point rejected.

⁵⁸ DPR-0358.224 RWRL, DPR-0363.213 IRHL, DPR-0374.219 RIHL and DPR-0384.231 RIDL

⁵⁹ DPR-0422.211 NCCF

Recommendations

- 14.7 I recommend, for the reasons given above, no amendments are made to SUB-R22.
- 14.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

15 Definition of Surface Water bodies

Introduction

- 15.1 This section addresses the submissions on the definition of 'surface water bodies'.
- 15.2 Note the inclusion of the word 'surface' in the heading of this definition differentiates it from the definition of 'water bodies' as provided under the RMA and the National Planning Standard. This is important as it avoids any issue with changing the definition.

Submissions

- 15.3 Seven submissions were received in relation to the definition, with four opposed in part and three that were in support in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0207	SDC	002	Surface Water Body	Oppose	Delete as notified and replace with: <u>Fresh water or geothermal water in a river, lake, stream, pond, or wetland, or any part thereof, which is not located within the coastal marine area.</u>
DPR-0411	Hughes	FS006	Surface Water Body	Support	Allow
DPR-0427	DoC	FS011	Surface Water Body	Support In Part	Decision not specified
DPR-0212	ESAI	004	Surface water body	Oppose In Part	Allow submissions on illustration that was not included in notified version of definition.
DPR-0299	S & J West	009	Surface Water Body	Oppose In Part	Include the illustration referred to in the definition, in the PDP, and provide an opportunity for submissions.
DPR-0353	HortNZ	077	Surface Water Body	Oppose In Part	Amend as follows:within the coastal marine area, <u>except this excludes artificial watercourses.</u>
DPR-0427	DoC	FS010	Surface Water Body	Oppose	Decision not specified
DPR-0379	Jill Thomson	032	Surface Water Body	Support In Part	Amend as follows: Fresh water or geothermal water in a river, lake, stream, pond, wetland, or any part thereof, that is not located within the

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					coastal marine area. All surface water body setbacks specified in this plan shall be measured from the <u>bank edge of the bed</u> of the surface water body, as illustrated below. And include illustration referred to in definition.
DPR-0409	Hughes	039	Surface Water Body	Support In Part	Amend definition so as to include the diagram referred to.
DPR-0209	Manmeet Singh	FS173	Surface Water Body	Support In Part	Accept submission in part
DPR-0298	Trices Road Group	FS886	Surface Water Body	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS077	Surface Water Body	Support In Part	Accept submission to the extent that they are consistent with the relief sought and interests of Dunweavin (461)
DPR-0492	Kevler	FS027	Surface Water Body	Support In Part	Accept Submission in Part
DPR-0493	Gallina & Heinz-Wattie	FS037	Surface Water Body	Support In Part	Accept submission in part.
DPR-0422	NCCF	087	Surface Water Body	Support In Part	Amend to include illustration and as follows: within the coastal marine area, except this excludes artificial watercourses. ...
DPR-0372	DHL	FS057	Surface Water Body	Support	Accept the submission.
DPR-0388	Craigmore	FS015	Surface Water Body	Support	Accept the submission.
DPR-0390	RIL	FS012	Surface Water Body	Support	Accept the submission.
DPR-0407	Forest & Bird	FS097	Surface Water Body	Oppose In Part	Reject the submission
DPR-0427	DoC	FS009	Surface Water Body	Oppose	Decision not specified
DPR-0441	Trustpower	025	Surface Water Body	Support In Part	Amend as follows: Fresh water or geothermal water in a river, lake, stream, pond, <u>artificial watercourse</u> , wetland, or any part thereof, that is not located within the coastal marine area.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0353	HortNZ	FS053	Surface Water Body	Oppose	Reject
DPR-0353	HortNZ	039	Bank of a Surface Water Body	Oppose In Part	Amend as follows:within the coastal marine area, <u>this excludes artificial watercourses.</u>
DPR-0212	ESAI	FS011	Bank of a Surface Water Body	Support	Allow in full
DPR-0372	DHL	FS032	Bank of a Surface Water Body	Support	Accept the submission.
DPR-0388	Craigmore	FS004	Bank of a Surface Water Body	Support	Accept the submission.
DPR-0390	RIL	FS005	Bank of a Surface Water Body	Support	Accept the submission.
DPR-0379	Jill Thomson	022	Bank of a Surface Water Body	Oppose	Delete 'Bank of any surface water body' Add ' <u>Bank of a river: the edge of the bed of the river</u> ' and ' <u>Bank of a lake or wetland: the edge of the bed of the lake or wetland.</u> '
DPR-0422	NCFF	029	Bank Of a Surface Water Body	Oppose In Part	Amend as follows: “.... within the coastal marine area, <u>with the exclusion of artificial watercourses.</u> ”
DPR-0407	Forest & Bird	FS075	Bank Of a Surface Water Body	Oppose In Part	Accept if Forest & Bird's concerns are addressed.

Analysis

Allowing submissions on illustrations

- 15.4 Two submissions⁶⁰ requested to be allowed to submit on the illustration referred to in the definition but not provided. I understand the diagram was omitted from the PDP due to an issue with the e-plan software. The diagram is provided below as figure 1. As stated above, the submitters are welcome to comment on the diagram at the hearing. As there will not be an

⁶⁰ DPR-0212.004 ESAI and DPR-0299.009 S & J West

opportunity for submissions on the illustration, I recommend the submission points are accepted only in part.

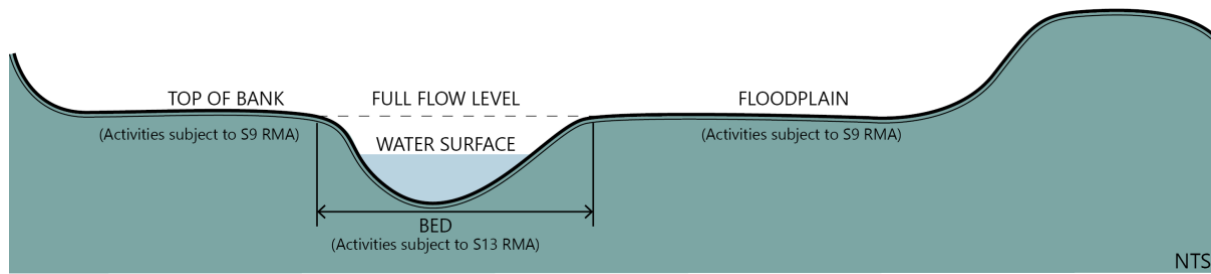


Figure 1 – The diagram that should have been included in the definition of ‘surface water bodies’

Exclusion of artificial water courses

15.5 The submission by FFNC⁶¹ requests to add an exclusion for artificial water bodies to the definition of surface water bodies. The intention is to exclude the likes of irrigation/hydroelectricity canals, water supply races, irrigation lakes and drainage ditches. Although the RMA’s and National Planning Standards definition of ‘water bodies’ does not exclude artificial water bodies, the RMA’s definition of ‘river’ specifically does exclude artificial water bodies. Although the RMA’s definitions of wetland and lakes do not exclude artificial water bodies, I am confident that the drafters of S.6 RMA did not intend to protect the natural character of irrigation canals/lakes and drainage ditches as a matter of national importance. Accordingly, I recommend that the submission be accepted in part. I have recommended listing in the definition what is included as an artificial water course in the interests of clarity.

Including the bank edge

15.6 The submission from J Thomson⁶² requests the addition of the word ‘edge’ to the definition of surface water bodies as follows:

“All surface water body setbacks specified in this plan shall be measured from the bank edge of the bed of the surface water body, as illustrated below.”

15.7 I agree this amendment would provide greater clarity and recommend the definition is amended accordingly.

Substituting ‘Which’ for ‘that’

15.8 The Council⁶³ have requested a small inconsequential amendment to replace the word ‘that’ for the word ‘which’. I recommend accepting this submission point as it aligns with their plan drafting style guide.

Recommendations and amendments

15.9 I recommend, for the reasons given above, that the Hearings Panel amend the definition of ‘surface water bodies’ as shown in Appendix 2.

⁶¹ DPR-0422.087 NCFE

⁶² DPR-0379.032 Jill Thomson

⁶³ DPR-0207.002 SDC

- 15.10 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 15.11 The s32AA evaluation is likewise undertaken in a consolidated manner below following the assessment and recommendations on submissions.
- 15.12 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

Section 32AA evaluation

- 15.13 The following points evaluate the recommended changes under Section 32AA of the RMA.

Effectiveness and efficiency

- 15.14 The key proposed amendments provide an exemption for artificial watercourse from the definition of surface water bodies. I considered this to be more effective than the PDP as the objectives were only intended for natural water bodies. The amendment is also considered to be more efficient than the PDP as it would avoid consent requirements for development that breach setbacks on artificial water bodies.

Costs and benefits

- 15.15 Significant costs will be avoided because of the proposed amendments. These costs are associated with resource consent applications for development within the setbacks of artificial waterbodies. Significant benefits will also result the most important of which is that development being able to occur within the setbacks of artificial water bodies.

Risk of acting or not acting

- 15.16 There are no issues with lack of information or uncertainty and therefore there are no risks of acting.

Conclusion as to the most appropriate option

- 15.17 The proposed amendment is the most appropriate way to achieve the NATC objectives that focus on natural character as opposed to unnatural character.

16 Natural Character Chapter Generally

- 16.1 This section of the report addresses the submissions made in relation to the natural character chapter itself (the whole chapter, rather than any specific provision of the chapter).

Submissions

- 16.2 Four submissions received in relation to NATC.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0358	RWRL	191	NATC	Support	Retain as notified
DPR-0384	RIDL	198	NATC	Support	Retain as notified.
DPR-0422	NCFF	155	NATC	Oppose	Delete as notified.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS127</i>	<i>NATC</i>	<i>Oppose</i>	<i>Reject the submission</i>
<i>DPR-0427</i>	<i>DoC</i>	<i>FS026</i>	<i>NATC</i>	<i>Oppose</i>	<i>Decision not specified</i>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0427	DoC	045	NATC	Support	Retain as notified.
DPR-0301	UWRG	FS187	NATC	Support	Allow in full
DPR-0407	Forest & Bird	FS211	NATC	Support	Accept the submission

Analysis

- 16.3 The FFNC submission⁶⁴ questions whether this chapter relates to a regional council function under the RMA. I disagree. This matter is addressed in detailed under section 8 of this report. I recommend this submission is rejected.

Recommendations

- 16.4 I recommend, for the reasons given above, that the Hearings Panel do not delete NATC. I recommend that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

17 Matters for Control or Discretion

Introduction

- 17.1 NATC-MAT1 is the only matter of discretion for the NATC.

Submissions

- 17.2 Four submissions were received in relation to NATC-MAT1 with three in support or support in part and one opposed in part.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0032	CCC	023	NATC-MAT1	Support	Retain as notified
DPR-0372	DHL	071	NATC-MAT1	Support	Retain as notified
DPR-0407	Forest & Bird	041	NATC-MAT1	Support In Part	Amend as follows: ... 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> .
DPR-0301	UWRG	FS119	NATC-MAT1	Support	Allow in full
DPR-0427	DoC	048	NATC-MAT1	Oppose In Part	Amend as follows: 1. Adverse The extent to which the proposed activity will effects on the natural character (as set out in NATC-SCHED4) 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;

⁶⁴ DPR-0422.155 NCF

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0301	UWRG	FS190	NATC-MAT1	Support	Allow in full
DPR-0407	Forest & Bird	FS214	NATC-MAT1	Support	Accept the submission

Analysis

Indigenous fauna

- 17.3 The Forest and Bird submission⁶⁵ requests that the ‘habitat of indigenous fauna’ is added to NATC-MAT1. I recommend that this request is accepted 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.
- 17.4 The Director-General of Conservation⁶⁶ seeks to amend NATC-MAT1 by referring to NATC-SCHED4 that states the natural character qualities of surface water bodies. This amendment is recommended to be accepted in part as it makes it clear what natural character effects are relevant. I have recommended a small consequential amendment to add the word ‘qualities’ into this amendment to ensure it is consistent with the wording of NATC-SCHED4.
- 17.5 This submission also seeks to amend the start of NATC-MAT1 with the addition of the word ‘adverse’ and the removal of the words ‘the extent to which the proposed activity will effect’. I recommend this amendment is rejected on the basis that it does not provide scope to consider positive effects.

Recommendations and amendments

- 17.6 I recommend, for the reasons given above, that the Hearings Panel amend NAT-MAT1.
- 17.7 The amendments recommended are set out in a consolidated manner in **Appendix 2**.
- 17.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

18 Conclusion

- 18.1 For the reasons set out in the Section 32AA evaluations and included throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.

⁶⁵ DPR-0407.041 Forest & Bird

⁶⁶ DPR-0427.048 DoC