



SECTION 42A REPORT

Natural character

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1 List of Abbreviations

List of Submitters and Abbreviations of Submitters' Names

Submitter Number	Abbreviation	Full Name of Submitter
S282	Telco Companies	Chorus New Zealand Limited, Spark New Zealand Trading Limited, Spark TowerCo Limited, Vodafone New Zealand Limited
S425	Twin Coast Cycle Trail	Pou Herenga Tai Twin Coast Cycle Trail Charitable Trust
S364	DOC	Director-General of Conservation (Department of Conservation)
S368	FNDC	Far North District Council
S246	FNDC - Infrastructure Planning	Far North District Council, Infrastructure and Asset Management - Infrastructure Planning
S512	FENZ	Fire and Emergency New Zealand
S409	HNZPT	Heritage New Zealand Pouhere Taonga
S159	Horticulture NZ	Horticulture New Zealand
S331	MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
S359	NRC	Northland Regional Council
S184	NTA	Northland Transportation Alliance
S511	Forest & Bird	Royal Forest and Bird Protection Society of New Zealand
S517	Spark & Vodafone	Spark New Zealand Trading Limited and Vodafone New Zealand Limited
S521	VKK	Vision Kerikeri (Vision for Kerikeri and Environs, VKK)
S356	NZTA	Waka Kotahi NZ Transport Agency

Note: This table contains a list of submitters relevant to this topic which are abbreviated and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.



Other abbreviations

Abbreviation	Full Term
Cl 16	Clause 16(2), Schedule 1, RMA.
FNDC	Far North District Council
NES-CF	National Environmental Standards for Commercial Forestry 2017
NES-F	National Environmental Standards for Freshwater 2020
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-IB	National Policy Statement for Indigenous Biodiversity 2023
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement

2 Executive summary

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The Natural character is located in the District-wide section of the PDP.
2. There are 163 original submission points on the Natural Character topic, including 37 submissions in support, 49 supporting in part, 1 with a neutral position and 44 in opposition¹. There were also 1,464 further submission points received.
3. The submissions can largely be categorised into several key themes:
 - a. The direction of the Natural Character chapter and the degree to which it gives effect to higher order documents, particularly the National Policy Statement for Freshwater Management 2020 (NPS-

¹ 32 submissions were recorded as not stating a position.



- FM) and National Environmental Standard for Freshwater 2020 (NES-F).
- b. General concerns that the provisions in the Natural Character chapter are overly restrictive.
 - c. General comments and requested amendments to the objectives and policies of the Natural Character chapter.
 - d. General comments and requested amendments to the rules and standards of the Natural Character chapter.
4. This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
- a. Amending the definition of "Wetland, lake and river margins".
 - b. Various amendments to the 'Overview' section to improve the wording, address inaccuracies, and better outline the scope of the chapter.
 - c. Replacing the two objectives with a single objective.
 - d. Various changes to the policies.
 - e. Extensive changes to the rules and standards, including expanding the scope of the permitted activity rules and changes to the activity status for non-compliance with the permitted activity rules.
 - f. Addition of a new set of criteria for the natural character of wetland, lake and river margins to be added to APP1.

3 Introduction

3.1 Author and qualifications

6. My full name is Benjamin (Ben) Michael Lee and I am the Northland Planning Manager (Principal Planning Consultant) with SLR Consulting.
7. I hold the qualification of Master of Science (Environmental Science) from the University of Auckland.
8. I have over 20 years of experience in planning and resource management. Prior to joining SLR consulting in May 2023, I was the Policy and Planning manager at the Northland Regional Council. At the Northland Regional



Council, I was involved in various Schedule 1 processes (including Plan Change 4 Aquaculture) to the Regional Coastal Plan for Northland, the Regional Policy Statement for Northland and the Northland Regional Plan. I have considerable experience in all facets of plan development.

9. Of relevance to natural character of freshwater margins, I am currently providing detailed advice to the Auckland Council on the management of freshwater margins in the Auckland Unitary Plan as part of developing their plan change to implement the NPS-FM.

3.2 Code of Conduct

10. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
11. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

3.3 Expert Advice

12. In preparing this report I rely on expert advice of Melean Absolum, landscape architect. I refer this advice as the "MAL report". The scope of this evidence relates to the evaluation of submissions received on the Natural character chapter rules.
13. The expert advice is provided as Appendix 3 to this Report.

4 Scope/Purpose of Report

14. This report has been prepared in accordance with section 42A of the RMA to:
 - a. Assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
 - b. Provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
15. This report responds to submissions on:
 - a. The Natural Character chapter (Part 2, District-wide matters); and
 - b. Rule SUB-R19 'Subdivision of a site within wetland, lake and river margins' in the Subdivision chapter.
16. Paradise Found Developments Limited (S346.003) made a general request applying to the Natural Character chapter (and other chapters) to introduce



a new Special Purpose Zone for residential activity and development authorised by the resource consents approved for Wiroa Station, Purerua Peninsula. I have not responded to the submission as it will be addressed as part of the rezoning hearing, to enable a full consideration of the zone change requests and relevant submitter evidence, against an agreed set of criteria, alongside other zone request changes and taking into consideration the recommended provisions for the zone chapters.

5 Statutory Requirements

5.1 Statutory documents

17. I note that the Natural Character section 32 report provides a detailed record of the relevant statutory considerations applicable to the Natural Character chapter.
18. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
19. However, it is important to highlight the higher order documents that have been subject to change since notification of the Proposed Plan that must be given effect to, which are relevant to the Natural Character chapter.

5.1.1 Resource Management Act

20. The Government, elected in October 2023, repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22 of December 2023 and reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The Government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

5.1.2 National Policy Statements

5.1.2.1 National Policy Statements Gazetted since Notification of the PDP

21. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides a summary of the National Policy Statements, relevant to the Natural Character chapter that have been gazetted since notification of the PDP. As District Plans must be "prepared in accordance with" and "give effect to" a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.



22. The National Policy Statement for Indigenous Biodiversity (NPS-IB) came into effect on 4 August 2023, after the PDP was notified for public submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity from the commencement date of the NPS-IB. The objective is supported by 17 policies. Part 3 of the NPS-IB sets out what must be done to give effect to the NPS-IB objective and policies. I note that the NPS-IB will be primarily given effect to through the Ecosystems and Indigenous Biodiversity chapter, which is also being considered in Hearing 4. The presence, extent and integrity of indigenous biodiversity is also relevant to the protection and restoration of natural character, which I consider further in the analysis of provisions below.
23. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022. The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, subdivision and inappropriate development on highly productive land. I note that the NPS-HPL will be primarily given effect to through the suite of Rural Zones in the PDP and the Subdivision chapter, which are being considered in Hearing 9 and 17 respectively. The NPS-HPL is not considered further in this report.

5.1.3 National Environmental Standards

24. The following national environmental standards are relevant to the Natural Character chapter as there are activities addressed in the current PDP rule or proposed by submitters that are also addressed by these national environmental standards:
 - a. The Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF).
 - b. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).
25. The NES-CF, which amend the NES-PF, came into effect on 3 November 2023. In addition to regulating the effects of plantation forestry, the NES-CF now regulates “exotic continuous-cover forestry”, which is commercial forestry not intended to be harvested (i.e. carbon forestry). As such, the NES-CF now applies to all types of forestry deliberately established for commercial purposes (permanent indigenous forestry is not regulated under the NES-CF). In addition to bringing exotic continuous-cover forestry within scope, the changes in the NES-CF:
 - a. Allow plan rules to be more stringent to manage afforestation of both types of forestry.



- b. Introduce a range of operational changes, including a new permitted activity standard for managing forestry slash at harvest and new requirements around management of wilding trees.

26. The NES-F came into effect on 3 September 2020. The regulations set out requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. There is overlap between the PDP rules and the NES-F regulations for earthworks and vegetation clearance next to wetlands as discussed further in the analysis of submissions below. A rule in the PDP can be more stringent than the NES-F but cannot be more lenient.

5.1.4 National Planning Standards

27. The National Planning Standards outline the structure and format of district plans, which the PDP must give effect to. The District-Wide Matters Standard in the National Planning Standards requires provisions to protect the natural character of wetlands, lakes and rivers and their margins must be located in the Natural Character chapter. The Natural Character chapter provisions proposed and recommended in this report follow this guidance.

5.1.5 Treaty Settlements

28. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

5.1.6 Iwi Management Plans – Update

29. Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.
30. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, two have been revised since notification of the PDP:
 - a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
 - b. Ahipara Takiwā Environmental Management Plan
31. Both environmental management plans highlight the importance of freshwater health and the role of freshwater riparian margins

Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan



32. Ngā Tikanga mo te Taiao o Ngāti Hine (the Ngāti Hine Environmental Management Plan) was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022.
33. The Ngāti Hine Environmental Management Plan has one provision specifically on riparian margins:

Objective:

2.2 Water and land – Wai me te whenua.

...

6. Healthy riparian margins for all water bodies

Ahipara Takiwā Environmental Management Plan

34. The Ahipara Takiwā Environmental Management Plan was updated in 2023, after notification of the PDP in July 2022.
35. The Ahipara Takiwā Environmental Management Plan includes a number of riparian margin specific provisions:

Issue:

WI20. There is a lack of proper riparian management throughout the catchment.

PI19. There is a lack of riparian planting along streams and watercourses

Objectives:

PO8. Farms within the Ahipara takiwā have nutrient management plans and riparian planting along streams and watercourses is widespread.

Policies:

WP26. To promote riparian revegetation throughout the catchment with locally sourced indigenous plants.

WP27. To promote integrated riparian management at the catchment level.

TWNATP11. To require the integration of robust biodiversity objectives in land use planning, including but not limited to:

...



(d) establishment of planted indigenous riparian margins along waterways.

PP3. To encourage land use activities to apply set back distances and / or buffers for protection of wetland, coastal and riparian habitats (e.g. fertiliser application, herbicide application, land based effluent disposal and the like).

36. Changes cannot be made to the PDP directly in response to these updated hapū/iwi management planning documents. However, they have been taken into account where relevant in considering submissions and making recommendations in response to the submissions.

5.2 Section 32AA evaluation

37. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
38. The s32AA further evaluation for each key issue considers:
- a. Whether the amended objectives are the best way to achieve the purpose of the RMA.
 - b. The reasonably practicable options for achieving those objectives.
 - c. The environmental, social, economic and cultural benefits and costs of the amended provisions.
 - d. The efficiency and effectiveness of the provisions for achieving the objectives.
 - e. The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
39. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made.

5.3 Procedural matters

40. No correspondence or meetings with submitters needed to be undertaken and there are no procedural matters to consider for this hearing.

6 Consideration of submissions received

6.1 Overview of submissions received

41. There are 163 original submission points on the Natural Character topic, including 37 submissions in support, 49 supporting in part, 1 with a neutral



position and 44 in opposition². There were also 1,464 further submission points received.

42. Submitters on the Natural Character chapter included:
 - a. Central and local government, namely Northland Regional Council (S359), NZTA (S356) and DOC (S364).
 - b. Non-governmental organisations including Forest and Bird (S511), Kapiro Conservation Trust (S442), and Northland Fish and Game (S436).
 - c. Māori organisations, such as Haititaimarangai Marae Kaitiaki Trust (S394) and Te Hiku Iwi Development Trust (S399).
 - d. Infrastructure providers, including Top Energy Limited (S483), Chorus New Zealand Ltd. et al (S282) and Twin Coast Cycle Trail (S425).
 - e. The primary production sector, including Federated Farmers (S421), Horticulture New Zealand (S159), and Summits Forests New Zealand (S148).
 - f. A group of large landowners in the coastal environment with some common interests, being Bentzen Farm Limited (S167) P S Yates Family Trust (S333), Setar Thirty Six Ltd (S168), The Shooting Box Ltd (S187), Mataka Station Residents Association (S230), and Mautauri Trustee Limited (S243).
 - g. Other interests, including John Andrew Riddell (S431).
43. The key issues identified in this report are set out below:
 - a. Key Issue 1: General submissions on the Natural Character chapter
 - b. Key Issue 2: Relationship with NES-F and NPS-FM
 - c. Key Issue 3: Lakes
 - d. Key Issue 4: Overview
 - e. Key Issue 5: Natural character mapping
 - f. Key Issue 6: Key Issue 6: Infrastructure objectives, policies and rules
 - g. Key Issue 7: Objectives
 - h. Key Issue 8: NATC-P1

² 32 submissions were recorded as not stating a position.



- i. Key Issue 9: NATC-P2
 - j. Key Issue 10: NATC-P3
 - k. Key Issue 11: NATC-P4
 - l. Key Issue 12: NATC-P6
 - m. Key Issue 13: Notes
 - n. Key Issue 14: Infrastructure in a road corridor
 - o. Key Issue 15: Federated Farmers – functional need
 - p. Key Issue 16: NATC-R1
 - q. Key Issue 17: NATC-R2
 - r. Key Issue 18: NATC-R3
 - s. Key Issue 19: Standards
 - t. Key Issue 20: Subdivision
44. Submission points outside of the scope of the PDP are not addressed in this report.
45. Section 6 is the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

6.2 Officer Recommendations

46. A copy of the recommended plan provisions for the Natural character topic is provided in the following appendices to this report:
- a. **Appendix 1.1 - Recommended amendments to the Natural Character chapter**
 - b. **Appendix 1.2 - Recommended amendments to the Wetland, lake and river margins definition**
 - c. **Appendix 1.3 - Recommended amendments to Rule Sub-19**
 - d. **Appendix 1.4 - Recommended amendments to APP1, Natural character assessment criteria**



47. A full list of submissions and further submissions on the Natural character chapter and recommendations whether to accept, accept in part or reject each submission point is contained in **Appendix 2 – Recommended Decisions on Submissions** to this report.
48. A copy of the expert advice from MAL is provided in **Appendix 3 – MAL Landscape Report**.
49. The Director-General of Conservation (DOC) submission generally supports the entire Natural Character chapter (e.g. S364.049). The summary of submissions includes this submission point against most provisions. DOC's submission has generally not been referenced in the key issues to avoid repetition but has been considered in my analysis of submissions.

6.2.1 Key Issue 1: General submissions on the Natural character chapter

Overview

Provision	Officer Recommendation(s)
Natural character chapter name	<ul style="list-style-type: none"> • The chapter name remains "Natural character"
Natural character chapter Overview	<ul style="list-style-type: none"> • A new paragraph be added to the Overview section explaining the relationship of the Natural Character and Coastal environment chapters, and the Natural Character chapter's focus on freshwater riparian margins, including the deletion of the final sentence of the Overview section to remove duplication with the next text

Analysis of Submissions on Key Issue 1: General submissions on the Natural Character chapter

Matters raised in submissions

50. Various submissions raised concerns about the scope of the Natural Character chapter. Some submitters suggested the name should be changed to "Wetlands, Lakes and River Margins" to better reflect the chapter content (e.g. Northland Planning and Development 2020 Limited (S502.034)). Other submitters suggested the chapter should be broadened to include natural character within the coastal environment (NZTA (S356.065) or to include natural character beyond just the margins of freshwater bodies (Te Hiku Iwi Development Trust (S399.062)).
51. NRC (S359.040) requested consideration of controls on exotic carbon forestry to protect the values of natural character areas.
52. Transpower (S454.088) have requested the words "*subject to I-PX*" be added to various objectives and policies so that the provisions are subject to that policy in the infrastructure chapter. Transpower have also requested similar relief for various objectives and policies in other chapters. "I-PX" is



a new policy requested by Transpower to be added to the Infrastructure chapter to recognise the national significance of the National Grid, consistent with the direction of the National Policy Statement for Electricity Transmission 2008 (NPS-ET).

53. Te Waka Pupuri Putea Trust (S477.014) request the plan is amended to be forward-thinking regarding climate-related issues.
54. Haititaimarangai Marae Kaitiaki Trust (S394.042) request a new policy for the Natural Character chapter:

"Manage the effects of activities adjacent to surface water by avoiding significant adverse cultural effects and remedying or mitigating other adverse cultural effects."

55. Te Hiku iwi Development Trust (S399.062) suggest the provisions should be amended to apply to the natural character of terrestrial ecosystems outside of freshwater margins.

Analysis

56. The name of the Natural Character chapter cannot be changed as it is prescribed by the National Planning Standards.
57. The focus of the Natural Character chapter on freshwater bodies and their margins reflects RMA s6(a):

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) 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:

(b) ...

(Underlining added for emphasis)

58. Consideration of the natural character of freshwater bodies themselves and the activities impacting on them is a regional council function and is addressed in the Proposed Regional Plan³.

³ The rules in the Proposed Regional Plan are to be treated as operative in accordance with Section 86F, RMA and therefore operative regional plan rules are no longer applicable.



59. Accordingly, I do not agree with the Te Hiku Iwi Development Trust submission to expand the scope of the Natural Character chapter to include natural character beyond freshwater margins.
60. The structure of the PDP is that natural character of the coastal environment is addressed in the Coastal Environment chapter and the Natural Character chapter addresses wetland, river and freshwater margins. This structure follows the direction of the National Planning Standards which requires that⁴:
- 20. ...provisions to protect the natural character of wetlands, lakes and rivers and their margins ... must be located in the Natural character chapter.*
- ...
- 28. If the district has a coastline, a Coastal environment chapter must be provided that:*
- a. sets out the approach to managing the coastal environment and giving effect to the NZCPS*
- ...
61. In respect to 'giving effect to the NZCPS', natural character of the coastal environment is specifically addressed in the NZCPS, which means it must be addressed in the Coastal Environment chapter.
62. I agree the relationship between the Natural Character and Coastal Environment chapters may be confusing for readers. While there is a sentence at the end of the Overview of the Natural Character that talks to the relationship between the chapters, it would be more helpful if this were at the start of the Overview. I consider there is an opportunity within the scope of submissions to expand this sentence to explain that the focus of the Natural Character chapter is on freshwater riparian margins.
63. In respect to NRC's submission, the submitter does not provide any specific details on how the impacts of commercial forestry should be further constrained. The relevant activities in the notified Natural character chapter are earthworks and indigenous vegetation clearance. I note that the NES-CF does not allow the PDP to include more stringent rules for earthworks and indigenous vegetation clearance for natural character value reasons (refer Clause 6, NES-CF). Afforestation is a potential activity that could be regulated in the Natural character chapter. There are rules in other overlay chapters (such as in ONL and ONF) restricting afforestation. However, in the absence of the submitter providing any evidence for why afforestation should be further constrained in freshwater margins and any immediately apparent reason why it would be necessary, I recommend that no such rule is included.
64. In respect to the Transpower submission, rather than inserting the requested phrase into multiple provisions across the PDP, a better and more efficient approach, in my view, is to address the relationship of the policy (I-

⁴ Page 34, National Planning Standards, 2019.



PX) with other PDP provisions in the proposed policy itself. This will enable that relationship to be dealt with once in the Infrastructure chapter rather than repeated throughout multiple chapters in the PDP.

65. This approach aligns with what I understand to be the intent of the relief sought by Transpower, namely to ensure that the Infrastructure chapter provides a “one-stop-stop” policy framework for the National Grid. The merits of this National Grid policy requested by Transpower, including the extent to which it prevails over other PDP policies, will be considered in Hearing 13 (Energy, Infrastructure and Transport).
66. In my opinion, there is generally no need to cross reference to other policies in the PDP because all relevant policies apply regardless where they sit within the PDP. If the “subject to I-PX” words were to be added, then this would also open the door for other similar policy references to be included and may create confusion about the applicability of provisions where there is no such reference.
67. There was no detail provided in the Te Waka Pupuri Putea Trust submission on how the Natural character chapter could better provide for climate change. Accordingly, I am unable to consider the submission.
68. I do not support the inclusion of the new policy as requested by the Haititaimarangai Marae Kaitiaki Trust. The focus of the Natural character chapter is on the natural character values of freshwater margins. It is not clear to me how the proposed policy relates to natural character values. However, I encourage the submitter to provide further information at the hearing.
69. I do not agree with the Te Hiku iwi Development Trust submission to broaden the scope of the Natural character chapter to the natural character of all terrestrial ecosystems. The focus of the Natural character chapter is on freshwater margins. Natural character is also addressed in the Coastal environment chapter (for natural character in the coastal environment). Natural terrestrial ecosystems are addressed in the Indigenous biodiversity. The combination of these three chapters already addresses terrestrial ecosystems across the district.

Recommendation

70. For the above reasons, I recommend the submissions are rejected, accepted or accepted in part, as set out in Appendix 2, and:
 - a. A new paragraph be added to the start of the Overview in the Natural Character chapter as follows:

This chapter addresses the natural character of wetlands, lakes and rivers. The focus is on buildings, structures, earthworks and indigenous vegetation clearance in wetland, lake and river margins.



The natural character of the coastal environment is addressed in the Coastal Environment chapter.

- b. the following sentence at the end of the Overview in the Natural character chapter be deleted (as a consequence of the new paragraph in a. above):

Provisions relating to the natural character of the coastal environment are located in the Coastal Environment chapter.

Section 32AA evaluation

71. The recommended amendments are not subject s32AA as the Overview section does not include objectives or provisions. Sections 32 and 32AA apply only to the evaluation of objectives and provisions.

6.2.2 Key Issue 2: Relationship with NES-F and NPS-FM

Overview

Provision(s)	Officer Recommendation(s)
Rules	<ul style="list-style-type: none"> Add an additional note referencing the potential application of the NES-F for activities within the natural inland wetland margins.
All	<ul style="list-style-type: none"> No changes to provisions in response to submissions concerned that the Natural Character chapter does not give effect to the NPS-FM.

Analysis of Submissions on Key Issue 2: Relationship with NES-F and NPS-FM

Matters raised in submissions

72. Twin Coast Cycle Trail (S425.029) and Top Energy Ltd (S483.150) seek changes to clarify the relationship of the Natural Character chapter rules with the NES-F.
73. Various submitters (e.g. Carbon Neutral NZ Trust S529.235) are concerned the Natural character chapter does not give effect to the NPS-FM and seek changes accordingly.

Analysis

74. Neither the Twin Coast Cycle Trail or Top Energy submissions identify any specific overlap issue between the NES-F and PDP, which makes it difficult to respond to their potential concerns.
75. In my view, the only overlap between the NES-F and PDP relates to provisions that manage vegetation clearance and earthworks in the margins of natural inland wetlands.



76. Rule NATC-R3 regulates vegetation clearance and earthworks within 20 – 30m (depending on the zone) of a wetland. The NES-F includes regulations for earthworks and vegetation clearance within 10m of a natural inland wetland.
77. Section 44A, RMA provides that where there is **conflict** or **duplication** between rules in a plan or proposed plan and a NES, Council is required to amend the proposed plan to remove the conflict or duplication⁵.
78. **Conflict** occurs where a rule is more stringent or more lenient than a NES and the NES does not expressly say that it can be.
79. The Natural Character rules are more lenient than the NES-F for earthworks and indigenous vegetation clearance within 10m of natural inland wetland. Under the NES-F these activities are non-complying activities⁶ (except in limited circumstances where resource consent is not required under the NES-F, such as scientific research or wetland restoration). However, the NES-F does not allow the PDP to be more lenient. It is therefore my opinion that there is a conflict. I propose a solution, but first I will address duplication.
80. **Duplication** occurs where the rule is neither more stringent or more lenient (e.g. permitted under PDP and does not require resource consent under the NES) AND the rule addresses the same effects as addressed by the NES. It is my opinion that there is no duplication between the NES-F and the NATC chapter rules for earthworks and vegetation clearance within 10m of a natural inland wetland because:
- a. As outlined in the previous paragraph, the activity status for earthworks and vegetation clearance within 10m of a natural inland wetland will in most cases be more lenient in the PDP than the NES.
 - b. The NATC chapter rules address different effects to those addressed by the NES-F. The NES-F is concerned with effects on natural inland wetlands while the PDP manages effects on the margins of wetlands.
81. To address the conflict issue, my recommended solution is to add the following in the 'Notes' preceding the rules in the Natural Character chapter:
- Earthworks and indigenous vegetation clearance in the margins of wetlands are controlled by the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F). Rule NATC-R3 does not apply to earthworks and indigenous vegetation clearance regulated by the NES-F*

⁵ Without using the process in Schedule 1 and as soon as practicable.

⁶ Regulation 54,



- 82. I have intentionally pitched the note broadly (as opposed to e.g. referring to earthworks and vegetation clearance within 10m of natural inland wetlands) to future proof against any change to the NES-F.
- 83. The various submitters concerned the Natural Character chapter does not adequately give effect to the NPS-FM provide no detail on the amendments they believe necessary to give full effect to the NPS-FM. The absence of this information from these submitters makes it difficult for me to consider the requests and to understand what changes the submitters believe need to be made to make the provisions consistent with the NPS-FM.
- 84. The NPS-FM does not contain any objectives or policies referring specifically to the natural character of wetland, lake and river margins. On this basis, the Natural Character chapter is not in my view contrary to the NPS-FM. Consequently, I do not recommend any changes in response to submissions concerned that the Natural Character chapter does not adequately give effect to the NPS-FM.

Recommendation

- 85. For the above the reasons, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and a note be added to the 'Notes' section immediately preceding the rules

Earthworks and indigenous vegetation clearance in the margins of wetlands are controlled by the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F). Rule NATC-R3 does not apply to earthworks and indigenous vegetation clearance regulated by the NES-F.

Section 32AA evaluation

- 86. The recommended note addresses a legal issue of the PDP rules conflicting with the NES-F.
- 87. Sections 32 and 32AA only apply to changes to objectives and provisions. On this basis, no evaluation under Section 32AA is required for the recommended additional wording for the Notes section.

6.2.3 Key Issue 3: Lakes

Overview

Provision(s)	Officer Recommendation(s)
Definition of wetland, lake and river margins	Amend the threshold for lakes in the definition of 'Wetland, Lake and River Margins'.

Analysis of Submissions on Key Issue 3: Lakes

Matters raised in submissions



88. Matauri Trustee Limited seeks amendments to various policies and rules to exclude the application of these provisions to lakes with a bed less than 5ha in area and exclude a body of freshwater impounded by a dam (e.g. S243.042). They were the only submitter requesting this change.

Analysis

89. The definition of lakes under the RMA which is also included in the PDP "*means a body of fresh water which is entirely or nearly surrounded by land*". It includes any man-made water bodies including dams.
90. The rules in the Natural Character apply to "*wetland, lake and river margins*"– which has a definition. The definition includes various setback distances (20-30m) depending on the zone, and the setbacks apply to lakes. Other than the Natural Character chapter, the definition is referred to in the following chapters:
- a. Subdivision chapter (effects on "*wetland, lake and river margins*" are a matter of control for various controlled activity subdivision rules, and SUB-19 which is specifically applies to subdivision in "*wetland, lake and river margins*").
 - b. Many of the zone chapters, where "*wetland, lake and river margins*" are listed as an exclusion from setback rules (i.e. the setback rules do not apply in "*wetland, lake and river margins*")
91. The Operative District Plan has a 5ha threshold for lakes (presumably the basis for the submitters request).
92. The issue of a size threshold for lakes and whether dams (and other artificial lakes) was considered in the Melean Absolum Limited (MAL) report (Appendix 3, Section 4.10 Lakes). The MAL report recommendation is to adopt a 1ha threshold for lakes and to not exclude dams, because:
- a. It aligns with the Proposed Regional Plan stock exclusion rule threshold of 1ha, which is for water quality purposes. Water quality and has some link to the natural character of freshwater margins.
 - b. Dams can have high natural character values (for example Lake Manuwai, Kerikeri's irrigation reservoir).
93. There is no obvious size threshold for lakes for which the Natural Character provisions should apply to. It is a balance of preserving natural character values while not unduly restricting development.
94. I am not aware of any data on lake sizes in the Far North district or elsewhere in the Northland region. Data for the Auckland region⁷ shows that of the 5,100 lakes in the region, 94% of are less than 0.4ha in size and

⁷ G Lawrence, Grant and Bishop, Craig (2017). Remapping the extent of Auckland's wetlands: methods and summary. Auckland Council technical report, TR2017/024



overwhelmingly artificial. Just 321 inland water bodies (6%) are larger than 0.4 ha. I would expect similar results for the Far North District in the sense that most lakes will be small (less than 1ha) and artificial.

95. In my opinion, there are certain types of lakes that should be excluded because they, and their margins, will have in most instances low natural character values and they are 'working' lakes:
- a. Artificial lakes used for attenuating stormwater
 - b. Wastewater treatment ponds (municipal and farms)
96. In some situations, the natural character of a water supply dam is not going to be a concern, while in others (such as the example referred to in the MAL report) it will be. Other than using a size threshold as a proxy, I do not know of any other way of differentiating between water supply dams with and without natural character values of concern.
97. Accordingly, I recommend that Natural Character provisions should not apply to:
- a. Lakes less than 1ha.
 - b. Artificial lakes where the primary purpose is for managing stormwater.
 - c. Wastewater treatment ponds (municipal and farms).
98. My proposed solution is to amend the definition. Other than in the Natural Character chapter, the only potential implication will be where subdivision is a controlled activity and the matters of control include effects on "*wetland, lake and river margins*". By changing the definition as proposed it would mean that adverse effects on the margins of lakes that do not meet the definition (e.g. lakes less than 1ha) could not be considered. However, I do not consider this will be an issue as the wording of the matters of control for each relevant rule also includes 'natural character'. This means that natural character values can be considered regardless of lake size. Example of wording from SUB-R5:
- e. ***adverse effects on areas with historic heritage and cultural values, natural features and landscapes, wetland, lake and river margins, natural character or indigenous biodiversity values including indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification system lists;***

(Bolded added for emphasis).



Recommendation

99. For the above the reasons, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the definition for 'Wetland, Lake and River Margins' be amended as follows:

In the Light Industrial and Heavy Industrial zones means the area of land within 20 metres of a:

- *Wetland;*
- *Lake greater than 1ha, and are not:*
 - *artificial lakes where the primary purpose is for managing stormwater, and*
 - *wastewater treatment ponds (municipal and farm); or*
- *river greater than 3m average width*

In the General Residential, Russell Township, Quail Ridge or Mixed Use zones means the area of land within 26 metres of a:

- *wetland;*
- *lake greater than 1ha, and are not:*
 - *artificial lakes where the primary purpose is for managing stormwater, and*
 - *wastewater treatment ponds (municipal and farm); or*
- *river greater than 3m average width*

In all other zones means the area of land within 30 metres of a:

- *wetland;*
- *lake greater than 1ha, and are not:*
 - *artificial lakes where the primary purpose is for managing stormwater, and*
 - *wastewater treatment ponds (municipal and farm); or*
- *river greater than 3m average width*

Where a river is smaller than 3m average width means 10m of a river.

Note: The width is measured in relation to the bed of the waterbody

Section 32AA evaluation

100. I consider the recommended change to the definition is an appropriate, efficient and effective way to achieve the PDP objectives. The addition of the exclusion for lakes less than 1ha, artificial lakes where the primary purpose is for stormwater management and wastewater treatment ponds is in my view an appropriate balance of preserving the natural character of lakes across the district while not unduly restricting development and imposing unnecessary costs.



6.2.4 Key Issue 4: Overview

Overview

Provision(s)	Officer Recommendation(s)
Overview	Retain as notified, with the following changes: <ul style="list-style-type: none"> • Adding a sentence to recognise that some activities have a functional need to be located within wetland, lake and river margins. • Deleting the sentence describing the roles of the Council and the Northland Regional Council. • Replacing the last paragraph to describe natural character more accurately.

Analysis of Submissions on Key Issue 4: Overview

Matters raised in submissions

101. The Overview provides a short introduction and context to the Natural Character chapter.
102. The Te Hiku Iwi Development Trust (S399.061) submission suggests the Overview fails to recognise that riparian margins provide ecological connection ki uta ki tai and provide important habitats for some species. They request the following amendment:

The margins of these waterbodies are areas of important and valued natural character and provide ecological connections and habitats for native species, support public and customary access, recreation and hazard management.

103. Federated Farmers (S421.140) seeks the addition of a sentence recognising that some activities will have a functional need to locate in riparian margins.

Analysis

104. While I agree with the Te Hiku Iwi Development Trust submission that riparian margins provide ecological connection ki uta ki tai and provide important habitats for some species, I do not believe it is necessary to make the addition to the sentence as ecological aspects are a part of natural character (I discuss the natural character criteria for freshwater margins in detail in Key Issue 9: NATC-P2).
105. Ecological benefits are also captured in the very next sentence of the Overview:

When managed well the margins also promote ecological benefits including on receiving water bodies.



106. However, my view is that this sentence conflicts with the scope of the Natural Character chapter because it suggests ecological benefits are separate to the natural character values of freshwater margins. I recommend this sentence be deleted and consider that there is scope to make this amendment under Cl 16 as it is of minor effect.
107. I agree with Federated Farmers' request to add a sentence recognising that some activities will have a functional need (such as pump sheds and boat ramps) to locate in riparian margins. This reflects policy NATC-P4 which promotes providing for buildings and structures where they have a functional (and operational) need to be located in freshwater margins. I recommend adding a sentence accordingly.
108. The Overview describes the responsibilities of NRC and FNDC with respect to riparian margins as follows:
- While the NRC is responsible for the waterbodies themselves, the District Plan manages their margins and the activities that can occur in these areas.*
109. This description is not entirely accurate. Both councils have responsibilities for (the health of) freshwater bodies. Also, the NRC has functions for managing activities in riparian margins. In my view there are two options – delete the sentence or more accurately describe the relationship. The problem with accurately describing the relationship is that it is not simple to explain and would add considerable content to the Overview to be accurate. Accordingly, my recommendation is to delete the sentence as an alteration with minor effect under Cl 16.

Recommendation

110. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the following amendments be made to the Overview:

A range of land use activities can have adverse effects on the natural character of wetlands, lakes and rivers, including the construction and alteration of buildings or structures, earthworks, vegetation clearance and farming within their margins. Some activities have a functional need to be located within wetland, lake and river margins. This chapter seeks to manage these activities to ensure that the characteristics and qualities that contribute to the natural character values are preserved. Further, these provisions encourage land use activities that look to enhance natural character, such as the restoration planting.

..

~~*While the NRC is responsible for the waterbodies themselves, the District Plan manages their margins and the activities that can occur in these areas.*~~



Section 32AA evaluation

111. The recommended amendments are not subject s32AA as the Overview section does not include objectives or provisions. Sections 32 and 32AA apply only to the evaluation of objectives and provisions.

6.2.5 Key Issue 5: Natural character mapping

Overview

Provision(s)	Officer Recommendation(s)
Objectives	Do not include the two objectives for natural character mapping as requested by submitters.

Analysis of Submissions on Key Issue 5: Natural character mapping

Matters raised in submissions

112. Various submitters (e.g. Forest and Bird (S511.071)) request the addition of two new objectives:

Assess and identify in district plan maps natural character areas around wetland, lake, and river margins.

Identify and establish buffer zones that encompass potential changes in the location and extent of natural character areas as a result of natural processes and the effects of climate change.

Analysis

113. I do not agree with the request for the two new objectives because:
- a. As identified by the Bentzen Farm Limited further submission (FS66/179), the objectives are more akin to methods. The scheme of the PDP is to not include methods (other than rules).
 - b. There is no obligation to map areas of natural character outside the coastal environment under the RMA or other higher order document.
 - c. Natural character does not need to be mapped to be considered. Natural character can be assessed on a case-by-case basis through the resource consent process.
114. The requested objectives (better described as methods) would not obligate the Council to map and would likely have little influence on a Council decision to map. A Council decision to map is based on a range of factors, including affordability, practicality and effectiveness. Mapping is an expensive exercise and Council would need to weigh the merits of undertaking the mapping (particularly as they are not required to) against other Council priorities and available funding.



Recommendation

115. For the reasons set out above, I recommend the submissions from the various submitters on this issue are rejected and the two objectives proposed by the submitters are not included in the PDP.

Section 32AA evaluation

116. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

6.2.6 Key Issue 6: Infrastructure objectives, policies and rules

Overview

Provision(s)	Officer Recommendation(s)
Infrastructure objectives and policies	Do not include infrastructure specific objectives and policies in the Natural Character chapter as requested by submitters.

6.2.7 Analysis of Submissions on Key Issue 6: Infrastructure objectives, policies and rules

Matters raised in submissions

117. Top Energy (S483.151, S483.152 and S483.153) request the following:
- a. Insert additional objectives and policies to recognise the need for the location of new infrastructure within the margins of waterbodies where there is an operational and functional need, and any adverse effects are adequately managed.
 - b. Insert additional objectives and policies that provide for and enable the operation, maintenance, repair and upgrading of infrastructure within the margins of waterbodies.
 - c. Amend rules to permit the suitable provision of new infrastructure where there is an operational and functional need, and the ongoing operation, maintenance, repair and upgrading of infrastructure within within the margins of waterbodies
118. Twin Coast Cycle Trail (S425.030, S425.031 and S425.032) request objective(s), policies and rules are amended to ensure that maintenance, operation, and upgrade of regionally significant infrastructure is provided for.

Analysis

119. The two objectives in the notified version of the Natural Character chapter address the need to protect the natural character of wetland, lake and river margins from inappropriate subdivision, use and development. These



objectives do not specifically recognise or provide for infrastructure (or any other type of development).

- 120. Infrastructure is addressed in the “Infrastructure” chapter. This chapter has a suite of objectives and policies, including some that recognise the benefits of infrastructure and the technical, operational and functional needs and constraints of infrastructure activities. It would appear the intent of submitters’ requests is already captured in these objectives and policies.
- 121. It is my view that objectives and policies relating to infrastructure are best located in the Infrastructure chapter. Objectives and policies apply regardless of their location in the plan. This means the objectives and policies in the Infrastructure chapter will apply when considering the impact of proposed infrastructure on natural character, that is, they will apply alongside the Natural Character chapter objectives and policies. The alternative would be to include the infrastructure objectives and policies in the Natural Character chapter (and in other like-chapters across the plan) which would lead to repetition, increased risk of inconsistency and risk the full intent as articulated in the Infrastructure chapter, is not captured in the other chapters.
- 122. I have not recommended any changes in response to the general requests for the rules to better provide for infrastructure, as the requests are too broad. However, I have recommended changes to the rules in response to specific requests for changes to the rules to provide for infrastructure - refer key issues 16 – 19.

Recommendation

- 123. For the reasons above, I recommend the submissions from Top Energy Limited and Twin Coast Cycle Trail are accepted in part to the extent the provisions (including my recommended changes) provide for the submitters’ requests.

Section 32AA evaluation

- 124. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

6.2.8 Key Issue 7: Objectives

Overview

Provision(s)	Officer Recommendation(s)
Objectives	Replace NATC-O1 and NATC-O2 with the following objective: <i><u>The natural character of wetland, lake and river margins is preserved and protected from inappropriate land use and subdivision.</u></i>

Analysis of Submissions on Key Issue 7



Matters raised in submissions

125. Various submissions support one or both objectives (e.g. Carbon Neutral NZ Trust (S529.139) and Vision Kerikeri (S527.015)). These submissions did not have any specific reasons for their support.
126. Federated Farmers (S421.143 & 144) and Waiaua Bay Farm Limited (S463.034 & 035) seek significant changes to both objectives as they are concerned the objectives too protectionist and go beyond section 6(a) of the RMA, which only requires protection from *inappropriate* subdivision, use and development.
127. Haititaimarangai Marae Kaitiaki Trust (S394.028) seek NATC-O1 be broadened to include all values of wetland, lakes and river margins (not just natural character values).
128. Transpower (S454.088) request NATC-O2 is amended as follows:

Subject to I-Px, Land use and subdivision is consistent with and does not compromise the characteristics and qualities of the natural character of wetland, lake and river margins.
129. Transpower have also requested similar relief for various objectives and policies in other chapters. "I-PX" is a new policy requested by Transpower to be added to the Infrastructure chapter to recognise the national significance of the National Grid, consistent with the direction of the National Policy Statement for Electricity Transmission 2008 (NPS-ET).

Analysis

Federated Farmers and Waiaua Bay Farm Limited

130. I agree with the Federated Farmers and Waiaua Bay Farm Limited that the objectives need to better align with RMA section 6(a).
131. RMA section 6(a) reads:

"...the preservation of the natural character of ... wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development"
132. The objectives as notified read as follows:

NATC-O1: The natural character of wetland, lake and river margins are managed to ensure their long-term preservation and protection for future generations.

NATC-O2: Land use and subdivision is consistent with and does not compromise the characteristics and qualities of the natural character of wetland, lake and river margins.



133. My concern with NATC-O1 and NATC-O2 is they both address the outcomes sought for the natural character of freshwater margins but in different ways and use wording that does not accurately reflect section 6(b) of the RMA, the NZCPS or the RPS.
134. Policy 4.6.1 is the policy in the RPS which addresses how effects on natural character (and natural features and landscapes) are to be managed. In summary, the policy directs the following in respect to adverse effects on the natural character of freshwater margins:
- a. In the coastal environment:
 - i. Avoid adverse effects on the outstanding natural character of freshwater margins.
 - ii. Avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects on the natural character of freshwater margins.
 - b. Outside the coastal environment, avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects on the natural character of freshwater margins.
135. Importantly, RPS Policy 4.6.1 'allows' less than significant adverse effects on the natural character of freshwater margins, other than on outstanding natural character of freshwater margins in the coastal environment (where effects must be avoided).
136. NATC-O1 refers to 'protection' of natural character of freshwater margins, which my interpretation of means no, or at most, negligible effects. While this may be appropriate for outstanding natural character of freshwater margins in the coastal environment (where adverse effects are to be avoided), for all other situations this wording is inconsistent with RPS Policy 4.6.1, which 'allows' adverse effects if they are not significant.
137. NATC-O2 introduces the concepts 'consistent with' and 'does not compromise', which in my opinion increase the potential for uncertainty and do not give effect to the NZCPS or RPS because:
- a. These concepts are not used in the RPS and NZCPS with respect to natural character.
 - b. It is not clear how these concepts relate to the overriding NZCPS and RPS requirements for how effects are managed. For example, it could be interpreted as allowing some degree of adverse effect – which is beyond no / negligible (avoiding) adverse effects but less than significant effects.



138. Accordingly, I recommend that the two objectives are replaced with a single objective, that better reflects section 6(a) of the RMA and gives effect to the RPS:

The natural character of wetland, lake and river margins is preserved and protected from inappropriate land use and subdivision.

Haititaimarangai Marae Kaitiaki Trust

139. I do not agree with the Haititaimarangai Marae Kaitiaki Trust's request to broaden the scope of the objective beyond natural character values. The scope of the chapter is limited to natural character, noting that 'natural character' is a broad term including a range of visual, natural processes and ecological aspects.

Transpower

140. Rather than inserting the requested phrase into multiple provisions across the PDP, a better and more efficient approach, in my view, is to address the relationship of the policy (I-PX) with other PDP provisions in the proposed policy itself. This will enable that relationship to be dealt with once in the Infrastructure chapter rather than repeated throughout multiple chapters in the PDP.
141. This approach aligns with what I understand to be the intent of the relief sought by Transpower, namely to ensure that the Infrastructure chapter provides a "one-stop-stop" policy framework for the National Grid. The merits of this National Grid policy requested by Transpower, including the extent to which it prevails over other PDP policies, will be considered in Hearing 13 (Energy, Infrastructure and Transport).
142. In my opinion, there is generally no need to cross reference to other provisions in the PDP because all relevant policies apply regardless where they sit within the PDP. If the "subject to I-PX" words were to be added, then this would also open the door for other similar policy references to be included and may create confusion about the applicability of provisions where there is no cross reference.

Recommendation

143. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and objectives NATC-O1 and NATC-O2 be replaced with the following objective:

The natural character of wetland, lake and river margins is preserved and protected from inappropriate land use and subdivision.

Section 32AA evaluation

144. The recommended amendments to consolidate the Natural Character objectives into one are more appropriate in achieving the purpose of the



RMA in my opinion, as these better give effect to s6(a) RMA and the policies in the RPS outlined above.

6.2.9 Key Issue 8: NATC-P1

Overview

Provision(s)	Officer Recommendation(s)
NATC-P1	Amend as follows: <i>Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on the <u>characteristics, qualities and values of natural character of wetland, lake and river margins.</u></i>

Analysis of Submissions on Key Issue 8: NATC-P1

Matters raised in submissions

145. NZTA (S356.066) request an amendment to NATC-P1 so it only applies to outstanding natural character areas.
146. Haititaimarangai Marae Kaitiaki Trust (S394.029) request that NATC-P1 is amended to ensure it is not contrary to the NPS-FM.

Analysis

147. Policy NATC-P1 reads:

Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on the natural character of wetland, lake and river margins.

NZTA submission

148. The NZTA suggest the policy is too onerous and should only apply to areas of outstanding natural character. The submitter provides no further details to support their view.
149. I disagree with the NZTA. NATC-P1 reflects RPS policy 4.6.1(2), which directs the avoidance of significant adverse effects on the natural character of freshwater bodies (relevant text bolded):

4.6.1 Policy – Managing effects on the characteristics and qualities natural character, natural features and landscapes

(1) ...

*(2) **Outside the coastal environment avoid significant adverse effects and avoid, remedy or mitigate other adverse effects (including cumulative adverse effects) of subdivision, use***



and development on the characteristics and qualities of outstanding natural features and outstanding natural landscapes and the natural character of freshwater bodies. Methods which may achieve this include:

a) ...

Haititaimarangai Marae Kaitiaki Trust submission

150. The Haititaimarangai Marae Kaitiaki Trust have not provided any proposed alternative wording for the policy, and nor can I identify any obvious reason why the policy would be contrary to the NPS-FM. Accordingly, I do not recommend any changes any response to this submission.

Characteristics, qualities and values

151. While there are no submissions directly requesting it, I am recommending NATC-P1 be amended to read:

Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on the characteristics, qualities and values of the natural character of wetland, lake and river margins.

The 'Natural Features and Landscapes' and 'Coastal Environment' chapter s42A reports (Key issue 4 and Key issue 2 respectively) address various submissions challenging the use of the phrase "*characteristics and qualities*" when referring to the coastal environment, outstanding natural character, outstanding natural features and outstanding landscapes. The recommendations in both reports is to use the phrase "*characteristics, qualities and values*". For the reasons outlined in the 'Natural Features and Landscapes' and 'Coastal Environment' chapter s42A reports and for consistency, in my opinion the same approach should be adopted for NATC-P1. I am of the view the change is a clarification and can be made as a CI 16 change with minor effect.

Recommendation

152. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and NATC-P1 is amended as follows:

Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of land use and subdivision on the characteristics, qualities and values of the natural character of wetland, lake and river margins.

Section 32AA evaluation

153. I consider my recommended amendments provide more certainty and clarity on the adverse effects that need to be avoided, consistent with the direction



in the RPS. Accordingly, I consider that my recommended amendments will achieve the relevant objectives in a more effective and efficient manner than the notified wording in terms of section 32AA of the RMA.

6.2.10 Key Issue 9: NATC-P2

Overview

Provision(s)	Officer Recommendation(s)
NATC-P2 APP1	Add new freshwater margins natural character criteria to APP1 and amend the NATC-P2 so it refers to the new freshwater margins criteria instead of the existing criteria

Analysis of Submissions on Key Issue 9: NATC-P2

Matters raised in submissions

154. Federated Farmers (S421.145 and S421.146) requests the concept of high natural character be deleted from NATC-P2 and APP1. (NATC-P2 refers to APP1 which includes guidance on what constitutes outstanding, high and other natural character areas).
155. Forest and Bird (S511.072), Kapiro Conservation Trust (S442.091) and Marianna Fenn (S542.018) request that NATC-P2 include reference to maps of identified natural character areas inside and outside the coastal environment.
156. Pacific Eco-Logic (S451.020) and Kapiro Conservation Trust (S442.164) request the addition of the methodology, definitions and criteria used for mapping natural character in the Regional Policy Statement for Northland (it is assumed the submitter wishes these to replace the existing natural character assessment criteria).

Analysis

157. Policy NATC-P2 is as follows:

Identify or assess the natural character of wetland, lake and river margins in accordance with the natural character assessment criteria in APP1- Mapping methods and criteria.

158. The natural character assessment criteria in APP1 includes guidance on what constitutes outstanding, high and other natural character areas.
159. However, there is no policy distinction⁸ between outstanding, high and other natural character areas⁹ for the natural character of the margins of

⁸ In the PDP, RPS or NPS-FM.

⁹ The RPS does differentiate between outstanding and other natural character of freshwater margins in the coastal environment (Policy 4.6.1).



freshwater bodies. The reference to outstanding, high and other natural character areas in APP1 as it applies to freshwater margins does not reflect the policy intent and has the potential to create confusion.

160. The issue stems from the coastal focus of the APP1 criteria (e.g. *g. Experiential attributes, including the sounds and smell of the sea; and their context or setting*), and reflects that in the coastal environment there is a distinction between outstanding, high and other natural character areas. The criteria are essentially the same as those in the RPS and NZCPS, and in these documents the criteria are limited to applying only in the coastal environment.
161. A solution is to have APP1 criteria specific to the natural character of freshwater margins. Helpfully, the NPS-FM includes Appendix IB (see below), which provides a list of the matters that apply to assessing the natural character relating to freshwater (including freshwater margins). In my opinion these criteria are more relevant than the coastal environment criteria notified in APP1, and I recommend they be included in APP1 (with some minor changes) for assessing the natural character of freshwater margins (in place of the notified criteria). The MAL report (Appendix 3) supports this recommendation (refer Section 2.1. Natural Character Overlay Areas).

From the National Policy Statement for Freshwater Management 2020:

Appendix 1B – Other values that must be considered

1 Natural form and character

The FMU or part of the FMU has particular natural qualities that people value. Natural qualities may include exceptional, natural, or iconic aesthetic features.

Matters contributing to the natural form and character of an FMU are its biological, visual and physical characteristics that are valued by the community, including:

- a) its biophysical, ecological, geological, geomorphological and morphological aspects*
- b) the natural movement of water and sediment including hydrological and fluvial processes*
- c) the natural location of a water body and course of a river*
- d) the relative dominance of indigenous flora and fauna*
- e) the presence of culturally significant species*
- f) the colour of the water the*



g) *the clarity of the water.*

162. The following paragraph in the Overview points readers to APP1 to assist with understanding the scope of matters included in 'natural character':

The regional mapping project undertaken by the Regional Council for the RPS identified the natural character of the coastal environment, which is a requirement of the NZCPS. While the NZCPS is not concerned with natural character outside of the coastal environment it does list matters (in policy 13.2) which may be part of or contribute to natural character. These matters can be found in APP1-Mapping methods and criteria of the District Plan.

163. As a consequential change to adding freshwater margin specific natural character criteria to APP1, I recommend this paragraph be replaced with the following:

Natural character includes a wide range of matters such as ecological aspects, natural processes and natural landforms. For more information about the full range of matters contributing to the natural character of wetland, lake and river margins, refer to APP1- Mapping methods and criteria of the District Plan.

164. I do not agree with the request from various submitters to include reference to maps of identified natural character areas inside and outside the coastal environment. The reasons for my opinion are set out in Key Issue 5: Natural character mapping above, in response to requests for new objectives committing Council to undertake mapping of natural character outside the coastal environment.

165. I do not agree with the request to include the methodology, definitions and criteria used for mapping natural character in the RPS. They were not included in the RPS. I understand the notified and Council decision version of the RPS included the methodology, definitions and criteria used for mapping natural character (or a version of it), however through the appeals process the parties and the Court agreed to revert to criteria that reflected NZCPS Policy 13(2). In my opinion the PDP should continue to use the same approach as the RPS and retain APP1 as it is (with the addition of the freshwater margin natural character criteria recommended above).

Recommendation

166. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the following changes made:
- a. *NATC-P2: Identify or assess the natural character of wetland, lake and river margins in accordance with the natural character of wetland, lake and river margins assessment criteria in APP1-Mapping methods and criteria.*



- b. Add the following subheading to APP1 – Mapping methods and criteria, Natural character assessment criteria:

Natural character of the coastal environment

Recognise that natural character is...

- c. Add the following to APP1 – Mapping methods and criteria, Natural character assessment criteria:

Natural character of wetland, lake and river margins

Recognise that the natural character of wetland, lake and river margins are the biological, visual and physical characteristics valued by the community, including:

- a. its biophysical, ecological, geological, geomorphological and morphological aspects*
- b. the natural movement of water and sediment including hydrological and fluvial processes*
- c. the natural location of a water body and course of a river*
- d. the relative dominance of indigenous flora and fauna*
- e. the presence of culturally significant species*
- f. the colour of the water*
- g. the clarity of the water*

Section 32AA evaluation

167. The changes I recommend better provide for the RMA, NPS-FM and RPS with respect to the natural character of freshwater margins. The proposed criteria are an improved articulation of the values of the natural character of wetland, lake and river margins compared to the current criteria which are focussed on the natural character of the coastal environment. This will lead to better assessment and management of the effects on the natural character of freshwater margins.

6.2.11 Key Issue 10: NATC-P3

Overview

Provision(s)	Officer Recommendation(s)
NATC-P3	Various amendments to better reflect the policy intent

Analysis of Submissions on Key Issue 10: NATC-P3

Matters raised in submissions



168. Five submitters were concerned that the word "Enable" suggests a highly permissive approach (e.g. Marianna Fenn (S542.019), Forest and Bird (S511.073)), and request that the policy is amended to read "*Allow for restricted amounts of...*". Further submitters on these original submissions suggested that "limited" may better direct the rules rather than "restricted" amounts of vegetation clearance as the rules specify vegetation clearance amounts according to certain limited specified activities.
169. J A Riddell (S431.159) proposes that instead of "Enable" it should be "Provided for" and adding an additional part to the policy limiting any vegetation clearance or earthworks to the minimum necessary.
170. Horticulture New Zealand (S159.055) supports clause d) of NATC-P3 as it provides for vegetation clearance for biosecurity purposes.

Analysis

171. Policy NATC-P3 as notified reads:

Enable indigenous vegetation removal and/or earthworks within wetland, lake and river margins where:

- a. *it is for the repair or maintenance of lawfully established activities;*
 - b. *it is for safe and reasonable clearance for existing overhead powerlines;*
 - c. *it is for health and safety of the public;*
 - d. *it is for biosecurity reasons; and*
 - e. *it is for the sustainable non-commercial harvest for rongoā Māori.*
172. The word "Enable" should be retained in my opinion. There is little/no practical difference in a policy context whether it is "enable", "provide for" or "allow". All three are used across the PDP policies. I note that NATC-P4 uses "Provide for", and I recommend NATC-P4 is amended to "Enable" to at least have some consistency within the Natural Character chapter - refer Key Issue 11.
173. I agree with JA Riddell's suggestion of including a limitation on the indigenous vegetation removal and/or earthworks being the "*minimum necessary*". It reinforces the point that there are limitations to indigenous vegetation removal and/or earthworks and care should be taken to only disturb the environment where it is justified by the nature of the activity being undertaken. This change will also address to some extent the five submitters concerned that the policy is too permissive.



174. The wording of NATC-P3 could also, in my opinion, be improved to remove repetition. Currently, the phrase “it is for” is used at the beginning for every listed item. I recommend these all be deleted, and it added into the chapeau of the policy to improve readability. This would be a clarification¹⁰ as it does not change the intent of the policy.
175. Lastly, the current wording reads if the listed items should be read as a collective group where all scenarios in the list must be met to be consistent with the policy. This has occurred because of the inclusion of the word “and” in d. which is the second to last item on the list. This is clearly an error and should be an “or”. If it were to remain “and” it would mean that only indigenous vegetation removal and/or earthworks meeting all the listed purposes would be ‘enabled’, which is obviously not the intent. In my opinion, this change can be made as a Cl 16 change with minor effect.

Recommendation

176. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the following changes made:

Enable indigenous vegetation removal and/or earthworks within wetland, lake and river margins where it is the minimum necessary for:

- a. ~~it is for~~ the repair or maintenance of lawfully established activities; or*
- b. ~~it is for~~ safe and reasonable clearance for existing overhead powerlines; or*
- c. ~~it is for~~ health and safety of the public; or*
- d. ~~it is for~~ biosecurity reasons; ~~and~~ or*
- e. ~~it is for~~ the sustainable non-commercial harvest for rongoā Māori.*

Section 32AA evaluation

177. The recommended amendments primarily clarify the intent of the provisions. On this basis, no evaluation for these recommended amendments under Section 32AA is required.

6.2.12 Key Issue 11: NATC-P4

Overview

Provision(s)	Officer Recommendation(s)
NATC-P4	Amendments to better reflect the intent of the policy

¹⁰ A clause 16, Schedule 1, RMA change.



Analysis of Submissions on Key Issue 11: NATC-P4

Matters raised in submissions

178. The MOE (S331.046) and NZTA (S331.046) supports NATC-P4.
179. Waiaua Bay Farm Limited (S463.037) seek the deletion of item c. from NATC-P4 (*the protection of natural character is preserved*). The submitter argues that:
- The outcome sought by the sub-clause is not apparent.
 - It seemingly requires any activities that would not 'preserve the protection of' natural character are to be avoided.
 - A requirement of this type is not considered to accurately reflect the obligations imposed by RMA section 6(a).
180. Transpower (S454.089) request NATC-P4 is amended as follows:

...buildings or structures, and extensions to existing buildings or structures on wetland, lake and river margins where, subject to Policy I-Px:

Analysis

181. Policy NATC-P4 reads:

Provide for buildings or structures, and extensions to existing buildings or structures on wetland, lake and river margins where:

- there is a functional or operational need for a building or structures location;*
- public access, customary access and recreational use can be protected or enhanced;*
- the protection of natural character is preserved; and*
- natural hazard risk will not be increased, taking into account the likely long term effects of climate change.*

182. In my opinion, clause c. does not make sense as currently drafted as it is unclear how you would "*preserve*" the "*protection*" of natural character. It appears to be attempting to combine two different aspects of RMA section 6(a):

the preservation of the natural character of ... wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(underlining added for emphasis)

183. In my opinion, rather than rewording clause c. to reflect the intent of the outcome sought for natural character under section 6(a) of the RMA, it



would be more efficient and reduce the risk of inconsistency to refer directly to NATC-P1. NATC-P4(c) would therefore read:

c. the effects on natural character are in accordance with NATC-P1.

184. I also note that NATC-P4 starts with "Provide for...". For the reasons set out in Key Issue 10: NATC-P3, I recommend changing to "Enable...". The change is of minor effect can be made under CI16 (there were no submissions on this).
185. Transpower has made a similar request for NATC-O2. I do not recommend any changes to NATC-P4 in response to this submission for the same reasons as outlined in Key Issue 7: Objectives.

Recommendation

186. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and NATC-P4 be amended as follows:

Enable ~~Provide for~~ buildings or structures, and extensions to existing buildings or structures on wetland, lake and river margins where:

- a. *there is a functional or operational need for a building or structures location; and*
- b. *public access, customary access and recreational use can be protected or enhanced; and*
- c. *the effects on natural character are in accordance with NATC-P1 ~~the protection of natural character is preserved~~; and*
- d. *natural hazard risk will not be increased, taking into account the likely long term effects of climate change.*

Section 32AA evaluation

187. The recommended amendments primarily clarify the intent of the provisions. On this basis, no evaluation for these recommended amendments under Section 32AA is required.

6.2.13 Key Issue 12: NATC-P6

Overview

Provision(s)	Officer Recommendation(s)
NATC-P6	Amend the chapeau of the policy.

Analysis of Submissions on Key Issue 12: NATC-P6

Matters raised in submissions

188. NZTA (S356.068), Russell Protection Society (S179.074) and DOC (S364.089) support NATC-P6 as notified and seek that it is retained as notified.



189. J A Riddell (S431.160) requests a further matter of consideration be added to NATC-P6:

The extent to which the purposes of esplanade areas are provided for.

190. The submitter believes the amendment is necessary to achieve the purpose of the RMA, with no further explanation.
191. Haititaimarangai Marae Kaitiaki Trust (S394.043) seek that NATC-P6 is amended to align with the NPS-FM. In particular, the submitter is concerned about clause (g) and considers that "*operational need is not a relevant (or permissible) consideration*". The submitter also considers that in the case of natural inland wetlands and rivers, the loss of extent must be avoided and their values protected unless there is a functional need for the activity in that location and the effects of the activity are managed via an effects management hierarchy.
192. Waiaua Bay Farm (S463.038) oppose NATC-P6 and request that the policy is deleted. The submitter considers that matters (a) to (m) are inappropriate to include in a policy as they do not provide direction about how to achieve the objectives. They suggest that, if necessary, the matters under NATC-P6 could be relocated to become assessment criteria in the rules section of the Natural Character chapter.

Analysis

193. Policy NATC-R6 reads as follows:

Manage land use and subdivision to preserve and protect the natural character of wetland, lake and river margins, and address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:

- a. the presence or absence of buildings, structures or infrastructure;*
 - b. the temporary or permanent nature of any adverse effects;*
 - c. the location, scale and design of any proposed development;*
 - d. any means of integrating the building, structure or activity;*
 - e. the ability of the environment to absorb change;*
 - f. the need for and location of earthworks or vegetation clearance;*
 - g. the operational or functional need of any regionally significant infrastructure to be sited in the particular location;*
194. Submitters both support and oppose NATC-P6, which sets out a range of matters to be considered as relevant when assessing resource consent



applications. Some submitters request that the policy be deleted or moved to the rules section as assessment criteria.

195. NATC-P6 functions as a 'consideration' policy, which is an approach that has been adopted consistently across the PDP chapters to provide a consistent way of ensuring all relevant matters can be assessed when resource consent is required under the relevant chapter. I consider that this is an appropriate drafting approach to adopt to achieve consistency across the PDP and recommend that NATC-P6 is retained on that basis.
196. However, I have identified two drafting issues with the chapeau of NATC-P6:
- a. It includes a statement of the outcome sought (i.e. "...*preserve and protect natural character of wetland, lake and river margins ...*") which both duplicates and slightly conflicts with earlier policies.
 - b. It is unnecessarily lengthy (i.e. "*manage land use and subdivision...to address the effects of the activity...including consideration of...*") which makes the intended application of the policy somewhat confusing in my opinion. This is a common issue across other 'consideration' policies in the PDP.
197. In my opinion, these issues can be easily addressed by simplifying the chapeau of the NATC-P6 to be much clearer on its purpose as follows:
- Consider the following matters where relevant when assessing and managing the effects of land use and subdivision on the natural character of wetland, lake and river margins:*
- ~~*Manage land use and subdivision to preserve and protect the natural character of wetland, lake and river margins, and address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:*~~
198. The same recommendations are being made to the equivalent policies in the Coastal Environment and Natural features and landscapes chapters. However, I note that this recommendation has broader implications for other corresponding 'consideration' policies in the PDP which may be considered by reporting officers where relevant and potentially through Hearing 20 as a wider plan integration/drafting issue.
199. The Haititaimarangai Marae Kaitiaki Trust is concerned the inclusion of 'operational need' in clause (g) does not align with the NPS-FM. Clause (g) as notified reads:

"...the operational or functional need of any regionally significant infrastructure to be sited in the particular location;..."



200. The submitter has not provided any detail on why they believe the clause does not align with the NPS-FM. In my opinion, there is nothing obvious in the NPS-FM that would limit the ability to recognise the operational need of regionally significant infrastructure in freshwater margins. In my view, providing recognition to regionally significant infrastructure in this way is consistent with RPS policies 5.3.2 and 5.3.3, and RPS method 5.3.4 which promote the recognition of the benefits of regionally significant infrastructure.
201. It is not clear to me why the additional wording suggested by J A Riddell would be necessary to achieve the purpose of the RMA and the submitter has not elaborated on this point further. I do not understand why the *"extent to which the purposes of esplanade areas are provide for"* is a relevant matter when considering effects on the natural character of wetland, lake and river margins. The provision of esplanade reserves and/or strips is a separate issue to managing effects on natural character and is adequately addressed in the Subdivision chapter¹¹.

Recommendation

202. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the chapeau of NATC-P6 is amended as follows:

Consider the following matters where relevant when assessing the effects of land use and subdivision on natural character:

Manage land use and subdivision to preserve and protect the natural character of wetland, lake and river margins, and address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:

Section 32AA evaluation

203. The recommended amendments primarily clarify the intent of the provisions. On this basis, no evaluation for these recommended amendments under Section 32AA is required.

6.2.14 Key Issue 13: Notes

Overview

Provision(s)	Officer Recommendation(s)
Notes	Amend Note 2.

Analysis of Submissions on Key Issue 13: Notes

¹¹ SUB-P7 and corresponding standard SUB-S8.



Matters raised in submissions

204. Forest and Bird (S511.074) and Kapiro Conservation Trust (S442.093) question why Note 2 of the Notes only refers to the Earthworks chapter when the Ecosystems and Indigenous Biodiversity Chapter also applies to vegetation clearance.

Analysis

205. The 'Notes' section provides advice to readers on how the rules across the chapters are applied.

206. Note 2 reads as follows:

The Earthworks chapter rules apply 'in addition' to the earthworks rules in this chapter, not instead of. In the event of a conflict between the earthworks chapter and this chapters earthworks rules, the most stringent rule will apply.

207. I consider that an amendment to advice Note 2 to also refer to the indigenous vegetation clearance thresholds in the Ecosystems and Indigenous Biodiversity chapter may be useful for some plan users. I therefore recommend that the submissions of Forest and Bird and Kapiro Conservation Trust are accepted, and advice Note 2 is amended accordingly.
208. I also recommend that the second part of the advice note, which states that the more stringent rule prevails, is deleted. In my opinion it oversimplifies how rules interact. It is better to be silent on the matter and rely on the guidance in the General approach chapter which explains how the rules are to be applied when multiple rules apply.
209. Similar submissions were made on the same note in the Coastal Environment chapter and the s42A reporting officer is making the same recommendation. There is also the same note in the Natural Features and Landscapes chapter which I am the reporting officer for, and I have recommended the same change for consistency.

Recommendation

210. That the submissions from Forest and Bird and Kapiro Conservation Trust are accepted and the following amendments are made to Note 2.

2. The Earthworks and Ecosystem and Indigenous Biodiversity chapter rules apply 'in addition' to the earthworks and indigenous vegetation clearance rules in this chapter, not instead of. In the event of a conflict between the earthworks chapter and this chapters earthworks rules, the most stringent rule will apply.

Section 32AA evaluation



211. Section 32AA does not apply to the Notes section. Sections 32 and 32AA only apply to the evaluation of objectives and provisions.

6.2.15 Key Issue 14: Infrastructure in a road corridor

Overview

Provision(s)	Officer Recommendation(s)
Rules	Amendments to NATC-R1 PER-2 and NATC-R3 PER-2

Analysis of Submissions on Key Issue 14: Infrastructure in a road corridor

Matters raised in submissions

212. Telco Companies (S282.013) request changes to the NATC rules to allow for telecommunication activities within the road reserve and existing road crossings over waterbodies as permitted activities, as well as new aerial telecommunication lines crossings as appropriate. The submitters suggest allowing for new infrastructure within existing road reserves and road crossings over waterbodies would be appropriate given the land has already been developed for infrastructure purposes. The submitter also suggests that allowing for new aerial telecommunication line crossings in freshwater margins is appropriate given the minimal scale of impact on those margins.

Analysis

213. I agree with Chorus New Zealand Limited et al that the NATC rules should allow telecommunication activities within road reserves and existing road crossings over waterbodies as permitted activities for the reasons they set out in their submission. The MAL report (Appendix 3) considered the request and also agreed (refer section 4.2 NFL and NATC – Infrastructure Rules).

214. I recommend adding the following to the list of:

- a. Permitted building and structure purposes listed in NATC-R1 PER-2: *Infrastructure in a road corridor*
- b. Permitted earthworks and indigenous vegetation clearance activities listed in NATC-R3 PER-1:

1. For maintenance and repair of existing lawfully established...g. infrastructure in a road corridor

10. for establishing infrastructure in a road corridor

215. "Infrastructure" and "road corridor" are defined in the PDP.

216. It is not clear to me what the submitter means by "...new aerial telecommunication lines crossings as appropriate." Firstly, it is not clear



whether they consider telecommunication line crossings to include poles or pylons (or other support structures) within freshwater body margins or whether they are simply seeking the ability for a line to cross above a waterbody and its margins. Secondly, I am not clear what the submitter has in mind when caveating the request with "...as appropriate". It is difficult for me to assess whether I agree with the submitter's relief when I do not have any indication from the submitter as to what situations they would view as appropriate. Accordingly, based on the (lack of) supporting rationale and information provided in the submission, my recommendation is to reject this element of their request.

Recommendation

217. For the reasons above, I recommend accepting the submission from Chorus New Zealand Limited et al (S282.013) in part, and making the following amendments:

a. Add the following to NATC-R1 PER-2:

9. infrastructure in a road corridor.

b. Add the following to NATC-R3 PER-2:

8. for establishing infrastructure in a road corridor

Section 32AA evaluation

218. The recommended additional clauses to NATC-R1 PER-2 and NATC-R2 PER-2 more appropriately, in my opinion, achieve the relevant PDP objectives. The recommended amendments strike an appropriate balance between the efficient use of land, provision for infrastructure and the management of effects on the margins of wetlands, lakes and rivers.

6.2.16 Key Issue 15: Federated Farmers – functional need

Overview

Provision(s)	Officer Recommendation(s)
Rules	No changes in response to Federated Farmers

Analysis of Submissions on Key Issue 15: Federated Farmers – functional need

Matters raised in submissions

219. Federated Farmers (S421.147, S421.148 and S421.149) make a general request for NATC-R1, NATC-R2 and NATC-R3 to provide for activities that have a functional need to be located within a natural character area, provided that the activity is not inappropriate for the area.

Analysis



220. It is assumed the submitters concern is about the permitted activities not providing for the activities envisaged by the submitter, and not about the activity status of resource consent applications for activities that do not comply with the permitted standards and/or the policies that would then apply to the consideration of such applications).
221. The rules (including recommended changes) permit a range of activities to occur in freshwater margins, including those likely to be envisaged by the submitter as having a functional need to be located within freshwater margins (e.g. pump sheds).
222. Federated Farmers do not propose any wording changes to achieve their broad submission point about providing for activities that need to be in freshwater margins. Because of the broad nature of the submission point and the lack of proposed wording provided by the submitter, I am unable to assess the submission.

Recommendation

223. For the reasons above, I recommend no changes in response to Federated Farmers submission points on NATC-R1, NATC-R2 and NATC-R3. However, I have recommended many changes to the rules (in response to other submissions) that may go some way to addressing the submitter’s concerns.

Section 32AA evaluation

224. No evaluation under Section 32AA is required because there no changes recommended.

6.2.17 Key Issue 16: NATC-R1

Overview

Provision(s)	Officer Recommendation(s)
NATC-R1	Various amendments including: <ul style="list-style-type: none"> • Deleting PER-1 • Adding additional activities to PER-2 • Changing non-compliance with the permitted activities from non-complying to restricted discretionary.

Analysis of Submissions on Key Issue 16: NATC-R1

Matters raised in submissions

225. NATC-R1 applies to buildings and structures in wetland, lake and river margins. It includes four permitted activity conditions (PER-1 to 4).

General



226. NZTA (S356.069) suggest NATC-R1 is too onerous to apply to all wetlands, lakes and river margins. The submitter seeks that NATC-R1 only apply to outstanding or high natural character areas. The submitter also seeks clarification on the relationship of NATC-R1 with the infrastructure provisions.
227. A group of submitters, including Bentzen Farm Limited (S167.026) and Matauri Trustee Limited (S243.044), seek a change to the activity status from discretionary to restricted discretionary where compliance with PER-2, 3 & 4 is not achieved. Bentzen Farm Limited suggest that NATC-P6 is referenced as containing the list of matters over which discretion is limited, while Matauri Trustee Limited propose a long list of matters (refer to their submission for the full list).

PER-1

228. PER-1 reads:

The building or structure, or extension or alteration to an existing building or structure on wetland, lake and river margins is not located within an ONL or ONF

229. Top Energy Limited (S483.154) questions why PER-1 is required, as buildings and structures in ONL and ONF are managed in the Natural features and landscape chapter. The submitter requests PER-1 be deleted.

PER-2

230. Waiaua Bay Farm Limited (S463.039) are concerned that PER-2¹² does not permit river and stock crossing structures, because the PDP definition of "crossing" does not include river and stock crossing structures.
231. PER-2 lists buildings and structures for particular purposes as permitted activities. Various submitters request additions to the list:

Addition	Submission	Reason
Lighting poles by, or on behalf of, the local authority. Footpaths and or paving no greater than 2m in width. Boundary fences or walls no more than 2m in height above ground level.	Northland Planning and Development 2020 Limited (S502.035).	For consistency with the submitters proposed additional exclusions for setbacks from MHWS (MUZ-S4)

¹² The submission refers to PER-1, but it is assumed this was an error.



An activity which has an operational need to be located in the area.	Ministry of Education Te Tāhuhu o Te Mātauranga (S331.047)	The Ministry may have an operational need to locate educational facilities on wetland, lake and river margins to provide for existing communities.
Maintenance of an existing maimai	Northland Fish and Game Council (S436.035)	Maimai are a fundamental part of duck hunting in New Zealand. They are accepted around much of New Zealand as a permitted activity
Maintenance, repair, operation or upgrading of network utilities where the works are permitted by the Infrastructure Chapter I-R3	Top Energy Limited (S483.154)	Electricity infrastructure is a critical component to ensuring a resilient, well-connected community.

PER-4

232. PER-4 reads:

The building or structure, or extension or alteration to an existing building or structure on wetland, lake and river margins complies with standard NATC-S1 Maximum height

233. L Newport (S136.001) suggests there is no resource management reason for the height of buildings and structures to be limited in height due to proximity to wetlands, lakes or rivers. The submitter requests PER-4 be deleted.

Other changes

234. Horticulture New Zealand (S159.057) request the addition of a new permitted activity condition on the basis that a 30m setback is too excessive and precludes optimal use of highly productive land. The suggested condition is:

PER-5: In areas that are not outstanding or high natural character provide for:

- *Irrigation structures*
- *Crops support structures*



- Artificial crop support structures with green or black cloth on vertical sides

With a setback of 10m from a wetland, lake or river over 3m wide or 3m setback for wetland, lake or river less than 3m wide

Analysis

General

235. I disagree with NZTA's request for NATC-R1 to only apply to outstanding or high natural character areas. It is inconsistent with the Natural Character objectives and policies which apply to all freshwater bodies and do not distinguish between outstanding, high and other natural character areas. Also, outstanding and high natural character areas have not been mapped for freshwater margins¹³.
236. NZTA also suggest clarification on the relationship between NATC-R1 and the infrastructure provisions (I have assumed that the submission means the rules in the Infrastructure chapter). In my opinion the relationship between rules in different chapters is adequately addressed in the Notes for the Natural Character chapter (Note 1) and in the General approach chapter.
237. I agree with the Bentzen Farm Limited and others request to change the activity status from discretionary to restricted discretionary. The purpose of NATC-R1 is to manage effects on natural character so I agree the matters of discretion should be limited accordingly.
238. Submitters also made a similar request to change the activity status of equivalent rules in the Coastal Environment and Natural Features and Landscapes chapters to restricted discretionary. I understand the same recommendation (to change to restricted discretionary) is also being made for the equivalent rules in these chapters.
239. I recommend the matters of discretion for the NATC-R1 restricted discretionary rule are limited to:
- a. Effects on the characteristics, qualities and values of natural character.
 - b. The matters in NATC-P6.
240. While technically "the matters in NATC-P6" come under the umbrella of "effects on the characteristics, qualities and values of natural character",

¹³ The ONC and HNC maps in the coastal environment do include freshwater margins. However, the emphasis of this mapping was on the natural character values from a coastal perspective. The inclusion of freshwater margins was generally a byproduct of being included in a broader area with outstanding or high coastal natural character and not because of specific freshwater margin natural character values.



it is in my view helpful to point to NATC-P6 as a prescriptive list of assessment matters to be considered which in most (but potentially not all) cases covers the field of what needs to be assessed. An alternative approach would be to just refer to the matters in NATC-P6 (as advocated by Bentzen Farm Limited and others). My concern with this is there may be matters pertinent to considering effects on natural character in a particular context that are not included in NATC-P6. Including the broadly cast "*effects on the characteristics, qualities and values of natural character*" avoids this risk.

241. There is, in my view, also an issue about the scope to consider broader positive effects under the proposed restricted discretionary activity rule.
242. Restricted discretionary activities can only be declined based on adverse effects within the envelope of the matters of discretion, however it is not so clear about how the positive effects of a proposal are to be considered. My view is that is that if there are no positive effects listed in the matters of discretion, then a decision maker may not have scope to consider these. This may lead to an application being declined where it may otherwise be granted if the positive effects could have been considered – and this is clearly not the intention.
243. The matters of discretion for the proposed NATC-R1 restricted discretionary rule are constrained to effects on natural character. To avoid the risk as described in the previous paragraph, I recommend the addition of another matter of discretion: "*the positive effects of the activity*".
244. My recommendation to add the 'positive effects' matter of discretion is specific to the proposed NATC-R1 restricted discretionary activity. For other restricted discretionary activity rules, it may be that the matters of discretion are already sufficiently broad to not require it. For example, I have discussed this matter with the Coastal environment chapter reporting officer, and their view is that the matters of discretion for the recommended restricted discretionary activity for CE-R1 are sufficiently broad to not require an additional 'positive effects' matter of discretion.
245. If my recommendation is accepted, then I would recommend that there be a plan-wide review of restricted discretionary activities to ensure positive effects are included within the matters of discretion, and it be addressed in Hearing 18 (Integration and mapping) or Hearing 20 (General / miscellaneous / sweep up).

PER-1

246. I agree with Top Energy that PER-1 should be deleted.
247. It is not clear what the resource management purpose of the condition is. The effect of it is that any building or structure in a freshwater margin and an ONL or ONF is a non-complying activity. There is no policy direction (either in the PDP or in higher policy documents) that directs a



more stringent rule to be applied to an ONL or ONF where it is within a freshwater margin. If the original drafting intent was to use ONLs and ONFs as a proxy for high/outstanding natural character outside the coastal environment, then I disagree with that approach. ONLs and ONFs have been identified for a different purpose. While there may be some spatial overlap and some of the elements may be similar, they are not interchangeable concepts. Also as discussed in Key Issue 9: NATC-P2, there is no policy direction for differentiating high and outstanding natural character for freshwater margins. Accordingly, my view is PER-1 should be deleted.

PER-2

248. I agree with Waiaua Bay Farm Limited that the use of the word “crossing” in PER-2 is problematic given the definition for “crossing” in the PDP:

PER-2

The building or structure, or extension or alteration to an existing building or structure on wetland, lake and river margins is required for:

...

*5. river **crossings**, including but not limited to, fords, bridges, stock **crossings** and culvert **crossings**; or*

(Bolded for emphasis)

Definition for “crossing”:

means in relation to vehicle access, the formed and properly constructed vehicle access from the carriage way of any road up to and including that portion of the road boundary of the site across which vehicle access is permitted by this Plan and includes any culvert, bridge or kerbing.

249. My recommended solution is to hyphenate the words: *river-crossing*, *stock-crossings* and *culvert-crossings* to differentiate them from the PDP definition of “crossing”.

250. The following is my assessment of the proposed submitter additions to the list of permitted structures in PER-2:

Addition	Assessment
Lighting poles by, or on behalf of, the local authority;	The inclusion of these was considered in the MAL report (Appendix 3, Section 4.6 NATC-R1 PER-2). The report’s conclusion was that it supported the inclusion of lighting poles



<p>Footpaths and or paving no greater than 2m in width;</p> <p>Boundary fences or walls no more than 2m in height above ground level;</p>	<p>and footpaths, but not boundary fences or walls.</p>
<p>An activity which has an operational need to be located in the area.</p>	<p>This is too uncertain and open ended for a permitted activity condition. Permitted activities should be worded to minimise interpretation uncertainty.</p>
<p>Maintenance of an existing maimai.</p>	<p>This addition is not necessary. The permitted activity condition addresses extensions and alterations to structures – not maintenance.</p>
<p>Maintenance, repair, operation or upgrading of network utilities where the works are permitted by the Infrastructure Chapter I-R3.</p>	<p>The request is considered in the MAL report (Appendix 3, Section 4.2 NFL and NATC – Infrastructure Rules).</p> <p>I agree the rules should better provide for network utility upgrading given the economic and community benefits of such infrastructure, but these benefits must be considered against the policy directive to avoid significant adverse effects the natural character of freshwater margins. Accordingly, as recommended in the MAL report, the following limitations should be applied to the upgrade:</p> <ul style="list-style-type: none"> a. Is no greater than 10m or the height of existing structure; b. Does not involve replacing a pole with a pi pole; and c. Is no greater than 20% of the GFA of the existing lawfully established building or structure.

251. In my view the wording of PER-2 could be improved. I recommend various minor changes CI 16 changes accordingly.

PER-4



252. I do not agree with L Newport (S136.001) that there is no resource management reason for the height of buildings and structures to be limited in height due to proximity to wetlands, lakes or rivers. The submitter suggests that it may be appropriate to limit size and setback of building and structures (for natural character purposes), but not height. The submitter provides no explanation for their view.
253. The prominence of buildings and structures (including height) can have a direct impact on the experience of natural character (visual characteristics are a component of natural character). In the absence of any explanation from the submitter, my recommendation is the submission be rejected.

Other changes

254. I do not agree with Horticulture New Zealand's proposal to have a reduced setbacks for horticulture structures. The submitter proposes a reduced setback for horticulture related structures on the basis that the default setbacks will preclude optimal use of highly productive land. Firstly, a requirement to obtain resource consent does not automatically mean the land cannot be used. Secondly, while these structures may individually be small, collectively they can cover large areas and have the potential to have a much larger impact on natural character than the other structures allowed under PER-1. The MAL report (Appendix 3) also considered Horticulture New Zealand's request and supports my assessment, recommending that such structures are not permitted in wetland, lake and river margins (Section 4.7 Horticulture NZ Submission).

Recommendations

255. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the following changes to NFL-R1:

- a. Delete PER-1:

~~*The building or structure, or extension or alteration to an existing building or structure on wetland, lake and river margins is not located within an ONL or ONF.*~~

- b. Amend PER-2 as follows:

~~*The building or structure, or extension or alteration to an existing building or structure on wetland, lake and river margins is required*~~
~~*for:*~~

1. ~~*for restoration and enhancement purposes; or*~~
2. ~~*for natural hazard mitigation undertaken by, or on behalf of, the local authority; or*~~
3. ~~*for park management activity in the Open Space or Sport*~~



- and Active Recreation zones; or*
4. *a post and wire fence for the purpose of protection from farm stock; or*
 5. *a river-crossings, including but not limited to, fords, bridges, stock-crossings and culverts crossings; or*
 6. *activities related to the construction of river-crossings; or*
 7. *a pumphouses utilised for the drawing of water provided they cover less than 25m² in area; or*
 8. *infrastructure less than 10m within a road corridor high provided any pole:*
 - a. *is a single pole (monopole), and*
 - b. *is not a pi-pole or a steel-lattice tower, or*
 9. *a lighting pole by, or on behalf of the local authority; or*
 10. *a footpath and or paving no greater than 2m wide; or*
 11. *the upgrading of an existing above ground network utility, provided it:*
 - a. *is no greater than 10m high or the height of the existing structure; and*
 - b. *is no greater than 20% of the GFA of the existing lawfully established building or structure; and*
 - c. *does not involve replacing a pole with a pi pole.*
- c. Amendments to activity status for failing to comply with the permitted activity conditions as follows:
- Activity status where compliance not achieved with PER-1:
Non-complying
Activity status where compliance not achieved with PER-2~~1~~, PER-3~~2~~ and PER-4~~3~~: Restricted Discretionary
- Matters of discretion are restricted to:
- a. effects on the characteristics and quality of natural character
 - b. the matters in NATC-P6
 - c. the positive effects of the activity

Section 32AA evaluation

256. Deleting PER-1 avoids applying unnecessary rules (and therefore costs). The permitted activity condition is not necessary for giving effect to the Natural Character objectives and policies.
257. The recommended additions to PER-2 are consistent with the Natural Character objectives and policies and will reduce regulatory costs for those activities.
258. Changing the non-compliance with the permitted activity conditions from non-complying to restricted discretionary will have no change in potential impact on natural character and reduces costs for resource consent applicants.



6.2.18 Key Issue 17: NATC-R2

Overview

Provision(s)	Officer Recommendation(s)
NATC-R2	Delete NATC-R2

Analysis of Submissions on Key Issue 17: NATC-R2

Matters raised in submissions

259. NATC-R2 includes PER-1, which reads:

The repair or maintenance within wetland, lake and river margins of the following activities where they have been lawfully established and where the size, scale and materials used are like for like:

1. roads
2. fences
3. network utilities
4. driveways and access
5. walking tracks
6. cycling tracks
7. farming tracks

260. The activity status for activities not complying with PER-1 is discretionary.

261. Bentzen Farm Limited (S167.027) and Matauri Trustee Ltd. (S243.045) raised concerns with NATC-R2 and other similar repair and maintenance rules in the PDP. They suggest unforeseen consequences will result where classes of activities not listed will become discretionary activities. The submitters request the rule (and others like it) are deleted.

262. Various submitters requested additions to the listed activities permitted by PER-1:

Addition	Submission	Reason
Carparking areas	Waitangi Limited (S503.044)	These features are common within wetland, lake and river margins and require ongoing repair and maintenance to ensure there are no adverse impacts on the surrounding environment and that they
Board walks	Northland Planning and Development 2020 Limited (S502.036)	
Boat ramps		



Buildings or structures		remain in good condition. It is considered unnecessary for additional consent to be required for repair and maintenance of such features, if the size, scale and materials used are like for like.
Plantation forestry tracks	Manulife Forest Management (NZ) Ltd (S160.020)	Farming tracks are included but plantation forestry tracks are not included and this is not considered fair and equitable.
Replace "farming tracks" with "tracks for primary production"	Summit Forests New Zealand Limited (S148.025)	The rules fail to provide for all primary production activity
Irrigation infrastructure Artificial crop protection structures	Horticulture New Zealand (S159.058)	Include activities ancillary to horticulture
Maimai	Northland Fish and Game Council (S436.036)	Maimai are a fundamental part of duck hunting in New Zealand. They are accepted around much of New Zealand as a permitted activity

Analysis

263. In my opinion, NATC-R2 does not appear to achieve what was presumably intended, which was to provide some leniency for repair and maintenance of the listed structures and buildings. My interpretation of the rule is that it does the opposite.
264. The chapeau of the rule refers to the 'following activities' – which means the rule does not apply to the repair and maintenance of other buildings of structures.
265. The General approach chapter sets out how the rules in the overlay chapters (such as Natural Character) are applied:

Some of the Overlay chapters only include rules for certain types of activities (e.g. natural character, natural features and landscapes or



coastal environment). If your proposed activity is within one of these overlays, but there are no overlay rules that are applicable to your activity, then your activity can be treated as a permitted activity under the Overlay Chapter unless stated otherwise.

266. Non-compliance with NATC-R2 will only be for the listed structures where they do not meet the requirements of being "...*lawfully established and where the size, scale and materials used are like for like.*". It means the repair and maintenance of types of buildings and structures not listed, is a permitted activity under the Natural Character chapter rules, and are not subject to the constraint of having to be lawfully established and be like for like regarding the size, scale and materials used.
267. One argument is the intent was to apply the constraints in the chapeau (of having to be lawfully established and like for like regarding the size, scale and materials used) to the listed buildings and structures – but, in my opinion, that does not make sense. There is no obvious reason why a greater level of constraint is put on the listed buildings and structures compared to other more prominent buildings and structures (e.g. houses, commercial buildings and bridges).
268. As such, I disagree with the Bentzen Farm Limited submission that non-compliance with PER-1 will result in some activities becoming discretionary. I read the rule in the opposite way – if not listed then the repair and maintenance would be permitted. If the rule was read the way the submitter reads it, I agree there are likely to be many other activities for which repair and maintenance activities would be of a similar scale as for the activities listed.
269. It is my opinion NATC-R2 rule should be deleted as it does not achieve the presumed intent and it is not necessary to achieve the Natural character chapter objectives and policies. This is consistent with the relief sought by Bentzen Farms Limited.
270. There are rules in the Coastal Environment and Natural Features and Landscapes chapters equivalent to NATC-R2. The reporting officers for these chapters are also recommending the deletion of these equivalent rules.
271. If NATC-R2 is deleted there will be a consequential change to NATC-R3 as it references NATC-R2, as well as consequential renumbering of the NATC rules.
272. I have not assessed the requests for additional activities to be added to the list of activities permitted by PER-1 because I am recommending the rule as a whole be deleted. However, the activities listed are referred to under NATC-R3 and I have assessed their inclusion in NATC-R3 in "Key Issue 18: NATC-R3" below.

Recommendation



273. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and I recommend NATC-R2 be deleted.

Section 32AA evaluation

274. NATC-R2 will, in my opinion, have perverse impacts that are likely to be the opposite of what the rule was intended, noting that it is not clear from the notified drafting as to what the original intention of the rule was. The deletion of NATC-R2 will not result in additional adverse effects on the natural character of wetlands, lakes and river to the extent Natural Character objectives and policies would not be achieved.

6.2.19 Key Issue 18: NATC-R3

Overview

Provision(s)	Officer Recommendation(s)
NATC-R3	<ul style="list-style-type: none"> • Various amendments to NATC PER-1, including additional activities. • Changing activity status for non-compliance with PER-1 from discretionary to restricted discretionary. • Changing activity status for non-compliance with PER-2 from non-complying to restricted discretionary.

Analysis of Submissions on Key Issue 18: NATC-R3

Matters raised in submissions

275. NATC-R3 addresses earthworks and vegetation clearance within wetland, lake and river margins and includes two permitted activity rules.

PER-1

276. PER-1 reads:

The earthworks or indigenous vegetation clearance within wetland, lake and river margins is:

- 1. required for the repair or maintenance permitted under NATC-R2; or*
- 2. required to provide for safe and reasonable clearance for existing overhead power lines.*
- 3. necessary to address a risk to public health and safety.*
- 4. for biosecurity reasons.*
- 5. for the sustainable non-commercial harvest of plant material for rongoā Māori.*



277. Forest and Bird (S511.076) oppose PER-1 on the basis that it conflicts with the NES-F.
278. Horticulture New Zealand (S159.059) support the rule as notified.
279. Various submissions request additions to the list of permitted earthworks or indigenous vegetation clearance:

Addition	Submission	Reason
Earthworks necessary to install, maintain, or upgrade water and sediment control associated with existing roads, tracks, and accessways	Summit Forests New Zealand Limited (S148.026)	Rules fail to provide for.
3. necessary to address a risk to public health and safety <u>or damage to property</u> To create and/or maintain firebreaks to manage fire risk	Fire and Emergency New Zealand (S512.027)	Fire and Emergency may be required to remove vegetation in the event of an emergency or to reduce fire risk. This is enabled under Section 65 and 68 of the Fire and Emergency New Zealand Act 2017.
Required for the upgrade of network utilities where the works are permitted by the NATC-R1	Top Energy Limited (S483.156)	To provide for works associated with upgrading as sought by the submitter through the inclusion of a new rule
Wetland maintenance and restoration work	Northland Fish and Game Council (S436.037)	Wetland maintenance, restoration and enhancement is vital to address the loss and degradation of wetlands. (Submission includes detailed reasons why human intervention for wetland functioning is necessary).

280. As outlined in *Key Issue 17: NATC-R2*, submitters requested various additions to the activities listed in NATC-R2. These additions are relevant to NATC-R3 given its cross-reference to NATC-R2. They are as follows:



Addition	Submission	Reason
Repair and maintenance of: <ul style="list-style-type: none"> • Carparking areas • Board walks • Boat ramps • Buildings or structures 	Waitangi Limited (S503.044) Northland Planning and Development 2020 Limited (S502.036)	These features are common within wetland, lake and river margins and require ongoing repair and maintenance to ensure there are no adverse impacts on the surrounding environment and that they remain in good condition. It is considered unnecessary for additional consent to be required for repair and maintenance of such features, if the size, scale and materials used are like for like.
Repair and maintenance of plantation forestry tracks	Manulife Forest Management (NZ) Ltd (S160.020)	Farming tracks are included but plantation forestry tracks are not included and this is not considered fair and equitable.
Repair and maintenance of tracks for primary production (To replace repair and maintenance of farming tracks)	Summit Forests New Zealand Limited (S148.025)	The rules fail to provide for all primary production activity.
Repair and maintenance of: <ul style="list-style-type: none"> • Irrigation infrastructure • Artificial crop protection structures 	Horticulture New Zealand (S159.058)	Include activities ancillary to horticulture.
Repair and maintenance of maimai	Northland Fish and Game Council (S436.036)	Maimai are a fundamental part of duck hunting in New Zealand. They are accepted around much of New Zealand as a permitted activity.

PER-2

281. There were no submissions specifically on PER-2.

General

282. Matauri Trustee Limited (S243.046) and Bentzen Farm Limited (S167.028) propose a change to the activity status from discretionary to restricted



discretionary where compliance with PER-1 & 2 is not achieved. The submitters propose a long list of matters (refer their submissions) over which discretion should be limited.

283. Carbon Neutral NZ Trust (S529.140 & 141) and Vision Kerikeri (S527.016 & 017) suggest the earthworks and vegetation clearance amounts allowed by NATC-R3 and NATC-S2 (the standard referred to by NATC-R3) are too excessive they need to be amended to align with s6, RMA and the NPS-FM.

Analysis

PER-1

284. Refer to *Key Issue 2: Relationship with NES-F and NPS-FM* for a discussion about the relationship of NATC-R3 and the NES-F.
285. PER-1 gives effect to NATC-P3, which in simple terms promotes allowing indigenous vegetation removal and/or earthworks for various purposes, including "*...the repair or maintenance of lawfully established activities*". Also particularly relevant for PER-1 are:
- a. NATC-P1 which sets the bar on allowable effects on natural character of wetland, lake and river margins – "*Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects*".
 - b. The Infrastructure chapter policies, which promote the benefits of infrastructure.
286. The combined thrust of this policy direction is to generally allow (permit) indigenous vegetation removal and/or earthworks in freshwater margins for the various purposes set out NATC-P3 and in the Infrastructure chapter, while ensuring significant effects are avoided.
287. The following is my assessment of the proposed submitter additions to the list of permitted purposes in PER-1 (includes the additions proposed for NATC-R2):



Proposed addition	Analysis
<p>Earthworks necessary to install, maintain, or upgrade water and sediment control associated with existing roads, tracks, and accessways.</p>	<p>The submitter is a commercial forest operator. Earthworks for commercial forestry is covered by the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF).</p> <p>Under regulation 23 of the NES, earthworks (as regulated by territorial authorities) is a permitted activity with no conditions.</p> <p>Accordingly, my view is the proposed addition is not necessary.</p> <p>Additionally, the addition would probably be ultra vires as a rule in the district plan can only be more stringent than the NES in prescribed circumstances – and none of them apply in respect to NATC-R3 (regulation 6).</p> <p>I recommend a note be added in the Notes section to highlight the application of NES-CF for commercial forest earthworks and indigenous vegetation clearance.</p>



Proposed addition	Analysis
<p>3. necessary to address a risk to public health and safety <u>or damage to property</u></p> <p>To create and/or maintain firebreaks to manage fire risk</p>	<p>I agree that the permitted activity condition should allow for indigenous vegetation clearance for the purposes of managing fire risk. I note PER-1 already allows vegetation clearance "<i>necessary to address a risk to public health and safety</i>". Arguably this would already allow vegetation clearance for managing fire risk, however I consider it would be helpful to provide certainty.</p> <p>I also note Fire and Emergency New Zealand can remove vegetation (or order it to be removed) in the event of an emergency or to reduce fire risk, as anticipated by sections 65 and 68 of the Fire and Emergency New Zealand Act 2017.</p> <p>I recommend the following additional wording:</p> <ul style="list-style-type: none"> ○ <i><u>to maintain firebreaks to manage fire risk; or</u></i> ○ <i><u>to remove vegetation as directed by Fire and Emergency New Zealand due to fire risk; or</u></i> ○ <i><u>to maintain a 20m setback from a building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area; or</u></i> <p>The recommended changes are consistent with recommended changes to the equivalent rules in the Natural Features & Landscapes and Coastal Environment chapters and will therefore ensure a consistent approach across the chapters.</p>
<p>Required for the upgrade of network utilities where the works are permitted by NATC-R1</p>	<p>Consistent with my reasons and recommendations for Top Energy's submission point in respect to NATC-R1, I propose the following:</p> <p><i>for the upgrading of existing above ground network utilities permitted by NATC-R1</i></p>
<p>Wetland maintenance and restoration work</p>	<p>I do not agree with this addition.</p> <p>Wetland maintenance and restoration is specifically addressed in the NES-F (regulation 38). A district rule for wetland maintenance and restoration cannot be more lenient than the NES-F (regulation 6). This means legally it cannot be included in the rule.</p>



Proposed addition	Analysis
<p>Repair and maintenance of:</p> <ul style="list-style-type: none"> • Carparking areas • Board walks • Boat ramps • Buildings or structures 	<p>Carparking areas: The submitter (Waitangi Limited) provides no description of the nature of earthworks or indigenous vegetation clearance that may be required for the repair and maintenance of car parking areas. My concern is primarily with earthworks and/or vegetation clearance beyond the formed carpark. The words "carparking areas" could be interpreted to include areas adjacent to formed carparks. I have no concern with works within the formed carpark. Accordingly, I agree with the addition but, referred to as "formed carparks".</p> <p>Board walks and boat ramps are structures commonly found within freshwater margins, and in the case of boat ramps, have a functional need to be there. The extent of earthworks and/or indigenous clearance required to repair or maintain these structures would be very unlikely to result in significant adverse effects on the natural character of freshwater margins. Accordingly, I agree with this addition.</p> <p>'Buildings or structures' is a broad term. My concern is that there may be situations where earthworks and/or indigenous vegetation clearance for the repair and maintenance of some types of structures or buildings could result in significant effects on natural character. I also note PER-2 allows a certain amount of earthworks and indigenous vegetation clearance regardless of the purpose and I am recommending the allowance be increased. Accordingly, I do not agree with this addition.</p> <p>The MAL report also considered the addition of these activities (Appendix 3) and reached the same conclusion as I have (Section 4.8 NATC-R3 PER1, NFL-R3 PER1 & CE-R3 PER-1).</p> <p>I also propose the consequential addition of "<i>...and is the minimum necessary</i>" to the chapeau of PER-1, as a result of recommending the same addition to NATC-P3. This will further mitigate against the risk of earthworks and/or vegetation clearance as allowed by the rule causing significant adverse effects on the natural character of freshwater margins.</p>



Proposed addition	Analysis
Repair and maintenance of plantation forestry tracks	<p>Earthworks and vegetation clearance (as regulated by territorial authorities) for plantation forestry track maintenance is a permitted activity under the NES-CF. Refer regulation 23 for earthworks and regulation 93 for vegetation clearance.</p> <p>A rule in the district plan for earthworks and vegetation clearance cannot be more lenient than the NES-CF and can only be more stringent than the NES-CF in prescribed circumstances – and none of them apply in respect to NATC-R3.</p> <p>Accordingly, my view is the proposed addition is not necessary and probably ultra vires as it would likely be more stringent for earthworks and more lenient for vegetation clearance than the NES-CF.</p>
Repair and maintenance of tracks for primary production (To replace repair and maintenance of farming tracks)	<p>The rule already permits indigenous vegetation clearance and earthworks for roads, driveways, access, walking tracks, cycling tracks and farming tracks. I do not see a resource management reason why other types of tracks should not be included.</p>
Repair and maintenance of: <ul style="list-style-type: none"> • Irrigation infrastructure • Artificial crop protection structure 	<p>While these structures may individually be small, collectively they can cover large areas. The MAL report (Appendix 3, Section 4.7 Horticulture NZ Submission) considered the addition of these activities, and recommended they not be included because of a lack of information on the nature of earthworks and vegetation clearance that may be required. Accordingly, I recommend they are not included in the rule.</p>
Repair and maintenance of maimai	<p>Maimai are typically small structures and the extent of vegetation removal and earthworks required for their effective use is likely to be small and within that allowed by NATC-R1, PER-2. I consider it unnecessary for maimai to be listed in the rule as a specific activity.</p>

Public health and safety and biosecurity reasons

288. NATC-R1 PER-1 includes the following two purposes:

3. necessary to address a risk to public health and safety

4. for biosecurity reasons



289. It would generally be indigenous vegetation clearance undertaken for these two purposes.
290. My concern is these reasons are broad, particularly as there is no upper limit, and could be used as a 'reason' for undertaking significant amounts of indigenous vegetation clearance (and potentially earthworks) resulting in inappropriate adverse effects on natural character.
291. The same two purposes are also in the earthworks and indigenous vegetation clearance equivalent rules in the Indigenous biodiversity, Coastal environment and Natural features and landscapes chapters.
292. The reporting officer for the Indigenous biodiversity chapter has considered several submissions that have requested refinements to the equivalent two clauses within rule IB-R1. The reporting officer recommends the equivalent two clauses in IB-R1 read:
- 1. to address an immediate necessary to address a risk to the health and safety of the public, or*
 - 4. clearance for the control pests for biosecurity reasons, or*
293. My recommendation is the same wording is adopted in NATC-R3 PER-1. This wording goes some way to addressing my concerns about the broadness of the clauses. The scope for the change to the public health and safety clause comes from the Carbon Neutral NZ Trust (S529.140 & 141) and Vision Kerikeri (S527.016 & 017) submissions which are concerned that the extent of earthworks and vegetation clearance allowed by NATC-R3 is too generous. The scope for the change to the biosecurity clause comes from the Forest & Bird (S511.076) submission request that the wording be the same as the wording they requested for the equivalent IB-R1 clause.

General

294. I agree with the Matauri Trustee Limited and Bentzen Farm Limited request to change the activity status from discretionary to restricted discretionary where compliance with PER-1 is not achieved for the same reasons as set out under Key issue 16: NATC-R1.
295. The Matauri Trustee Limited and Bentzen Farm Limited request for a restricted discretionary activity status also applies where compliance with PER-2 is not achieved. It is currently a non-complying activity. It is not clear to me what the resource management purpose is for non-compliance with PER-2 to be a stricter activity status than PER-1. Accordingly, I agree with the submitters that non-compliance with PER-2 also be a restricted discretionary activity.
296. Carbon Neutral NZ Trust (S529.140) and Vision Kerikeri (S527.016) provide no alternative wording to address their concerns about the earthworks and vegetation clearance amounts allowed by NATC-R3 and NATC-S2 being too



excessive. I am not able to assess this relatively broad request as I have no sense of the wording that would satisfy the submitters' concerns.

297. A consequential change as result of the recommendation to include "...*is the minimum necessary...*" in NATC-P3 is the inclusion of the same wording in the chapeau of NATC-R3, PER-1 for consistency.

Recommendation

298. For the above reasons, I recommend that the following amendments be made to NATC-R3 (note - the additions of clauses 1(g) and 10 were addressed in Key Issue 14):

PER-1

The earthworks or indigenous vegetation clearance within wetland, lake and river margins and is the minimum necessary is:

1. *required for the repair or maintenance permitted under NATC-R2; or for the operation, repair or maintenance of existing lawfully established:*
 - a. *fences;*
 - b. *network utilities;*
 - c. *tracks, driveways, roads and access ways;*
 - d. *formed carparks;*
 - e. *board walks;*
 - f. *boat ramps;*
 - g. *infrastructure in a road corridor; or*
2. *required to provide for safe and reasonable clearance for existing overhead power lines.; or*
3. *necessary to address a risk to public health and safety.; or*
4. *for biosecurity reasons.; or*
5. *for the sustainable non-commercial harvest of plant material for rongoā Māori.; or*
6. *to maintain firebreaks to manage fire risk; or*
7. *to remove vegetation as directed by Fire and Emergency New Zealand due to fire risk, or*
8. *to maintain a 20m setback from a building used for a vulnerable activity (excluding accessory buildings) to the edge of the indigenous vegetation area, or*
9. *for the upgrading of existing above ground network utilities permitted by NATC-R1; or*
10. *for establishing, operating, maintaining and repairing infrastructure in a road corridor.*

Activity status when compliance not achieved with PER-1 and PER-2: Restricted Discretionary

Matters of discretion are restricted to:

- a. *effects on the characteristics and quality of natural character;*



- b. the matters in NATC-P6; and*
- c. the positive effects of the activity.*

Activity status when compliance not achieved with PER-2: Non-complying

Section 32AA evaluation

- 299. The recommended additions to PER-2 are consistent with the Natural Character objectives and policies and will reduce regulatory costs for those activities.
- 300. Changing the non-compliance with PER-1 and PER-2 from discretionary and non-complying respectively to restricted discretionary will have no change in potential impact on natural character and reduce costs for resource consent applicants.

6.2.20 Key Issue 19: Standards

Overview

Provision(s)	Officer Recommendation(s)
NATC-S1	<ul style="list-style-type: none"> • Retain NATC-S1 as notified. • Minor amendments to NATC-S2.

Analysis of Submissions on Key Issue 19: Standards

Matters raised in submissions

NATC-S1

- 301. There are a range of submitter views on NATC-S1:

Decision sought	Submitter	Reason
Retain as notified	Ministry of Education (S331.048)	Supports the standard
Delete the 5m high requirement	P Hayman (S210.003)	Standard is overly restrictive and the maximum height of the zone the property is in should be the governing factor.
Delete the whole standard	L Newport (S136.002)	There is no resource management based link between the height of a building or structure and its proximity to a wetland, lake or river margin. Setback distance and size of the building or structure maybe, but not height.



NATC-S2

302. The following are submission points relating to NATC-S2:

Decision sought	Submitter	Reason
Amend the reference in clause 1 of NATC-S2 to "...5. below..." to "...4. below..."	Various, including Northland Planning and Development 2020 Limited (S502.037)	Reference to clause 5 is a typo.
Delete the note referencing the NESF and replace with: <i>Attention is also drawn to the NESF which has additional requirements around works within 100m of a wetland area.</i>	Waitangi Limited (S503.045) Northland Planning and Development 2020 Limited (S502.037) Carbon Neutral NZ Trust (S529.143)	Generally speaking, any activity undertaken within 100m of a wetland area will trigger consent as most activities will divert water in some way.
Amend Standard NATC-S2 so that it clearly states that any clearance of vegetation must be outside a 10m margin from wetlands.	Te Hiku Iwi Development Trust (S399.065)	Vegetation clearance within, or within a 10m setback from, a wetland and earthworks within, or within a 10 m setback from, a wetland are non-complying activities under regulation 54 of the NES-F
Amend clause 1 to read: 1. <i>not exceed a total area of 400-500m² or 10% of the area of the natural wetland for 10 years from the notification of the District Plan, unless a control in 5. below applies;</i>	Northland Fish and Game Council (S436.038)	Will bring the standard in line with the NES-F for wetland restoration and maintenance.



Decision sought	Submitter	Reason
<p>Amend the clauses of standard NATC-S2 as follows:</p> <p><i>1. not exceed a total area of 400m² for 10 years from the notification of the District Plan per calendar year, unless a control in 5. below applies;</i></p> <p><i>2. ...</i></p> <p><i>3. screen exposed faces visible from a public place; and</i></p> <p><i>4. ...</i></p> <p><i>5. Earthworks:</i></p> <p><i>i. must for their duration be controlled in accordance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005);</i></p> <p><i>ii. shall be implemented to prevent silt or sediment from entering water bodies, coastal marine area, any stormwater system, overland flow paths, or roads.</i></p>	<p>Matauri Trustee Limited (S243.047)¹⁴</p> <p>Bentzen Farm Limited (S167.029)¹⁵</p>	<p>Refer submission for detailed reasoning (generally concerned that standards are too stringent).</p>

Analysis

NATC-S1

303. NATC-S1 reads:

- 1. The maximum height of a building or structure, or extension or alteration to an existing building or structure is 5m above ground level; or*
- 2. where a building or structure is lawfully established, any extension does not exceed the height of the existing building or structure above ground level.*

¹⁴ The submission point also includes addition of text meaning the standards do not apply to lakes less than 5ha or dams. This issue is addressed under *Key Issue 3: Definition – Wetland, lake and river margins.*

¹⁵ The submission point also includes addition of text meaning the standards do not apply to lakes less than 5ha or dams. This issue is addressed under *Key Issue 3: Definition – Wetland, lake and river margins.*



304. Notably, the “or” between the two standards means that only one of the standards must be met.
305. NATC-S1 is only referenced by NATC-R1, PER-4.
306. The MAL report (Appendix 3, Section 3.2B NATC Building Height Controls) considered the submissions on NATC-S1 and recommended no changes. The report notes that 5m allows for single story building and it is an appropriate height restriction to protect natural character values. I rely on this advice in my recommendation to retain NATC-S1 as notified.

NATC-S2

307. NATC-S2 relates to earthworks and indigenous vegetation clearance and reads:

Any earthworks or indigenous vegetation clearance on a site within a wetland, lake and river margins must:

- 1. not exceed a total area of 400m² for 10 years from the notification of the District Plan, unless a control in 5. below applies;*
- 2. not exceed a cut height or fill depth of 1m;*
- 3. screen exposed faces; and*
- 4. comply with Ecosystems and indigenous biodiversity chapter, NFL-S3 Earthworks or indigenous vegetation clearance and CE-S3 Earthworks or indigenous vegetation clearance.*

Note: The NESF requires a 10m setback from any natural wetland in respect of earthworks or vegetation clearance and may require consent from the Regional Council.

308. The following is my analysis of the submissions on NATC-S2:



Decision sought	Analysis
<p>Amend the reference in clause 1 of NATC-S2: <i>"...unless a control in clause 4-5, below applies..."</i>.</p>	<p>I agree the reference is an error. However, I do not agree that it should be changed to "4." Clause 4. Reads:</p> <p><i>Any earthworks...must:</i></p> <p>...</p> <p><i>4. comply with Ecosystems and indigenous biodiversity chapter, NFL-S3 Earthworks or indigenous vegetation clearance and CE-S3 Earthworks or indigenous vegetation clearance</i></p> <p>Referencing clause 4. as proposed would essentially mean that indigenous vegetation clearance thresholds in the Natural Character chapter would not apply as the indigenous vegetation clearance provisions in the Ecosystems and indigenous biodiversity chapter are more generous. I do not believe this was the intent. I suspect there was a clause 5. in a pre-notification version of the PDP that included some alternative thresholds for a particular circumstance, and it was deleted prior to notification.</p>
<p>Delete the note referencing the NESF and replace with:</p> <p><u><i>Attention is also drawn to the NESF which has additional requirements around works within 100m of a wetland area.</i></u></p>	<p>I disagree. The placement of the note in NATC-S2 suggests the NES-F is not relevant to earthworks and indigenous vegetation clearance associated with NATC-R3 PER-1 (which <u>does not</u> reference NATC-S2) – which is not the case. In my opinion the note should be deleted rather than replaced. I note my recommended addition to the Notes preceding the rules highlighting the potential application of the NES-F.</p> <p>I also note that the NES-F applies to <u>natural inland</u> wetlands, whereas the Natural Character chapter provisions apply to all wetlands.</p>
<p>Amend NATC-S2 so that it clearly states that any clearance of vegetation must be outside a 10m margin from wetlands.</p>	<p>I disagree for two reasons. Firstly, the NES-F allows some types of earthworks and vegetation clearance (e.g. wetland restoration) within 10m of wetlands. Secondly, the inclusion of such wording just in NATC-S2 does not make sense given the potential applicability of the NES-F to all earthworks and indigenous vegetation clearance in wetland margins. Refer analysis above for the immediately preceding submission point.</p>

Decision sought	Analysis
<p>Amend clause 1 to read:</p> <p><i>1. not exceed a total area of 400 500m² or 10% of the area of the natural wetland for 10 years from the notification of the District Plan, unless a control in 5. below applies;</i></p>	<p>Regulation 38, NES-F allows for vegetation clearance and earthworks (for wetland restoration, wetland maintenance or biosecurity purposes) within 10m of a natural inland wetland as a permitted activity, provided they occur over more than 500 m² or 10% of the area of the natural inland wetland.</p> <p>I disagree with the proposed amendments as the 500m² and 10% limitation apply to the natural inland wetland itself – not the 10m margin. The Natural Character chapter rules do not apply to activities <u>in</u> wetlands (regulation of such activities is a regional council function).</p>
<p>Amend the clauses of standard NATC-S2 as follows:</p> <p><i>1. not exceed a total area of 400m² for 10 years from the notification of the District Plan per calendar year, unless a control in 5. below applies;</i></p> <p><i>2. ...</i></p> <p><i>3. screen exposed faces <u>visible from a public place</u>; and</i></p> <p><i>4. ...</i></p> <p><i>5. <u>Earthworks</u>:</i></p> <p><i><u>i. must for their duration be controlled in accordance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005):</u></i></p> <p><i><u>ii. shall be implemented to prevent silt or sediment from entering water bodies, coastal marine area, any stormwater system, overland flow paths, or roads.</u></i></p>	<p>I rely on the advice of the MAL report (Appendix 3, Section 3.3 Earthworks and Vegetation Clearance Thresholds). In summary the MAL report recommends:</p> <ul style="list-style-type: none"> ○ Earthworks – changing the timeframe from 10 years to per year, but the volume be reduced to 50m². ○ Indigenous vegetation clearance – supports the retention of the 400m² per 10 years. <p>I also rely on the MAL report (Appendix 3, Section 3.3 Earthworks and Vegetation Clearance Thresholds) for the proposed change to item 3 on the basis the standard is intending to avoid scars on the landscape being visible to the public at large and that the additional words make this clear.</p> <p>I disagree with the proposed inclusion of 5. Sediment control from earthworks is a regional council function. The purpose of the Regional Plan earthworks rules is to manage the risk of sediment impacts on freshwater health.</p>

309. While it has not been raised in submissions, I have some concerns with clause 4 of NATC-S2. It appears to me to be redundant as the provisions referenced must be complied with regardless. By including it, the risk is it creates confusion in situations where relevant provisions in other chapters



are not referenced. Accordingly, I recommend clause 4. be deleted as a clarification¹⁶.

Recommendation

310. For the reasons above, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and:

a. Retain NATC-S1 as notified; and

b. Make the following amendments to NATC-S2:

1. Any earthworks or indigenous vegetation clearance on a site within a wetland, lake and river margins must:

a. 1. not exceed a total area of 50 400m² in any calendar year for 10 years from the notification of the District Plan, unless a control in 5. below applies;

b. 2. not exceed a cut height or fill depth of 1m;

c. 3. screen exposed faces visible from public places; and

4. comply with Ecosystems and indigenous biodiversity chapter, NFL-S3 Earthworks or indigenous vegetation clearance and CE-S3 Earthworks or indigenous vegetation clearance.

***Note:** The NESF requires a 10m setback from any natural wetland in respect of earthworks or vegetation clearance and may require consent from the Regional Council.*

2. Any vegetation clearance on a site within a wetland, lake and river margins must exceed a total area of 400m² in any 10 year period.

Section 32AA evaluation

311. The recommended change to the earthworks threshold will allow a greater amount of earthworks over the life of the District Plan – 500m² compared to 400m². However, the recommended change will provide a greater limitation on the extent of earthworks allowable as a one-off event. On balance, the recommended change will better provide for the Natural Character objectives and policies while still allowing an appropriate level of earthworks.

312. The other changes clarify the intent of the standards.

6.2.21 Key Issue 20: Subdivision

Overview

¹⁶ A clause 16, Schedule 1, RMA change.



Provision(s)	Officer Recommendation(s)
SUB-R19	Amend to make it clear the rules only apply when one or more new allotments are created within wetland, lake and river margins

Analysis of Submissions on Key Issue 20: Subdivision

Matters raised in submissions

313. PS Yates Family Trust (S33.054) and a number of other submitters are concerned that subdivision rule (SUB-R19) will capture subdivision where the wetland, river or lake margin is only a small component of the subdivision. They suggest the rule be amended to only apply "*where any boundary of a new lot to be created (excluding boundary adjustments) is within the margin*".

Analysis

314. SUB-R19 is in the Subdivision chapter but is addressed within this section 42A report as the rules relate to subdivision within the margins of wetlands, lakes and rivers. The rule provides a more stringent activity status for subdivision than in the underlying zone, recognising the greater potential for adverse effects on natural character resulting from subdivision (particularly the associated land-use activities that go along with the subdivision). This approach has also been applied to the Natural Features and Landscapes overlays and in the coastal environment.
315. I agree with the PS Yates Family Trust and other submissions that SUB-R19 should only be concerned with the creation of additional allotments within the wetland, river or lake margin.
316. I recommend SUB-19 be amended as follows:
- Subdivision creating one or more additional allotments of a site within wetland, lake and river margins*
317. I have spoken with the author of the Coastal Environment chapter s42A report and I understand they are making the same recommendation in respect to SUB-20 and SUB-21. I am the author for the Natural Features and Landscapes chapter s42A report and I have recommended the same for SUB-R18.

Recommendation

318. For the reasons above, I recommend that submissions on SUB-R19 are accepted as set out in Appendix 2 and SUB-19 is amended as follows:

Subdivision creating one or more additional allotments of a site within wetland, lake and river margins

Section 32AA evaluation



319. I consider that my recommended amendments to SUB-R19 are appropriate to achieve the objectives in accordance with section 32AA of the RMA. My recommended amendment retains the intent to ensure all relevant adverse effects can be considered when subdivision is proposed in freshwater margins, while ensuring the rules do not unintendedly apply to land not within freshwater margins thereby achieving the desired outcome in a more efficient manner.

7 Conclusion

320. This report has provided an assessment of submissions received in relation to Natural Character chapter. The primary amendments that I have recommended relate to:
- a. Amending the definition of "Wetland, lake and river margins".
 - b. Various amendments to the 'Overview' section to improve the wording, address inaccuracies, and better outline the scope of the chapter.
 - c. Replacing the two objectives with a single objective.
 - d. Various changes to the policies.
 - e. Extensive changes to the rules and standards, including expanding the scope of the permitted activity rules and changes to the activity status for non-compliance with the permitted activity rules.
 - f. Addition of a new set of criteria for the natural character of wetland, lake and river margins to be added to APP1.
321. Section 6 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Natural Character chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and/or Appendix 2.
322. I recommend that provisions for the Natural Character topic be amended as set out in appendices 1.1, 1.2, 1.3 and 1.3 for the reasons set out in this report.
323. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.



Recommended by: Benjamin Michael Lee – Northland Planning Manager, SLR Consulting

Approved by: James R Witham – Team Leader District Plan, Far North District Council.

Date: 8 July 2024