

SECTION 42A REPORT

Report on submissions and further submissions

Topic: Natural Character

Report prepared by: C. O'Callaghan

Dated: 2 October 2024

TABLE OF CONTENTS

1.	Introduction	4
1.1	Qualifications and Experience.....	4
1.2	Code of Conduct.....	4
1.3	Conflict of Interest.....	4
1.4	Preparation of this report.....	4
2.	Scope of Report	4
2.1	Matters addressed by this report	4
2.2	Overview of the chapter	5
2.3	Statutory Requirements	6
3.	Consideration of submissions received.....	6
3.1	Overview of submissions	6
3.2	Structure of this report.....	6
4.	Analysis and Recommendations	7
Topic 1:	Policies.....	7
Topic 2:	Rules	12
Topic 3:	Other matters	16
APPENDIX 1 SUBMISSIONS TABLE		19
APPENDIX 2 AMENDMENTS TO THE NATURAL CHARACTER CHAPTER		20
APPENDIX 3 SECTION 32AA EVALUATION.....		21

List of submitters and further submitters addressed in this report

Submission No	Submitter
53	Department of Conservation (DoC)
47	Forest and Bird
08	Manulife Forest Management (NZ) Ltd (MFMNZL)
27	Horticulture New Zealand (Hort NZ)
18	Auckland/Waikato Fish and Game Council (AWFG)
19	PF Olsen
10	Waikato Regional Council (WRC)
43	Graymont (NZ) Ltd
51	KiwiRail Holdings Ltd
46	Federated Farmers
04	New Zealand Agricultural Aviation Association (NZAAA)
11	Queen Elizabeth the Second National Trust (QEII Trust)
12	Heli A1 Limited
38	Te Tokanganui- a-noho Whare (TTRMC)
50	Te Nehenehenui
FS05	Federated Farmers
FS19	PF Olsen
FS23	Te Nehenehenui
FS03	Department of Conservation (DoC)
FS26	Waikato Regional Council (WRC)
FS17	NZ Speleological Society
FS08	Graymont (NZ) Ltd
FS30	Transpower (New Zealand) Ltd (Transpower)
FS10	King Country Energy
FS25	Ventus Energy
FS20	Sheryl Paekau
FS07	Grant Lennox
FS13	New Zealand Agricultural Aviation Association (NZAAA)
FS15	New Zealand Helicopter Association (NZHA)

1. Introduction

1.1 Qualifications and Experience

1. My name is Cathy O'Callaghan. I am contracted by Waitomo District Council to assist with the hearings process for the proposed plan. I hold a first class honours degree in resource and environmental planning from Massey University and a post-graduate qualification in agricultural-environmental science. I have been employed in consenting and policy planning roles in consultancy services, local, regional and central government for over 30 years. I drafted the provisions of the natural character chapter.

1.2 Code of Conduct

2. I confirm that I have read the Code of Conduct for Expert Witness 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.
3. I am authorised to give this evidence on the Council's behalf to the proposed district plan Hearings Commissioners (the Commissioners).

1.3 Conflict of Interest

4. I wish to declare a conflict of interest relating to Horticulture New Zealand. I am the director of a small holding growing kiwifruit and avocados in Thames-Coromandel District. All commercial growers pay a levy to Horticulture New Zealand which in part funds submissions to central and local government. I do not have any property, interests or investment relationships in Waitomo District. To the best of my knowledge, I confirm that I have no other real or perceived conflict of interest.

1.4 Preparation of this report

5. I am the author of this report. The scope of evidence in this report relates to the evaluation of submissions and further submissions received in relation to the natural character chapter. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. Scope of Report

2.1 Matters addressed by this report

6. The provisions of the natural character chapter and its associated definitions are covered by this report. The scope of my evidence relates to

the evaluation of submissions and further submissions received in relation to the provisions associated with the natural character chapter, insofar as they relate to land use (and by reference only, to subdivision).

7. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA). This report considers submissions that were received by the Council in relation to the provisions which manage the natural character of wetlands, lakes, rivers and their margins the Waitomo proposed district plan. Other effects and activities are addressed in various section 42A reports including ecosystems and indigenous biodiversity, coastal environment, natural features and landscapes and earthworks.

2.2 Overview of the chapter

8. The natural character chapter sets out the policy direction and rules to manage the natural character of wetlands, lakes, rivers and their margins. The rules were developed in conjunction with the rules for the coastal environment and areas of outstanding, high and very high natural character and the natural features and landscapes chapter.
9. Section 6 of the RMA provides for matters of national importance. This plan must recognise and provide for section s6(a) concerning 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, s6(c) regarding the protection of significant indigenous vegetation and significant habitats of indigenous fauna, s6(d) relating to public access to and along the district's lakes and rivers, and s6(e) concerning the relationship of Māori and their culture and traditions with their ancestral lands and water. Water bodies are of particular spiritual and intrinsic significance to mana whenua and are also enjoyed by the community for a range of commercial and recreational uses.
10. The Waikato Regional Policy Statement (WRPS) NATC-O1 requires that the natural character of the coastal environment, wetlands, and lakes and rivers and their margins are protected from the adverse effects of inappropriate subdivision, use and development. This objective's aims are delivered by NATC-P1 which ensures that activities within wetlands, and lakes and rivers and their margins are appropriate in relation to the level of natural character. NATC-M1 states that district plans must have particular regard to protecting the special values of inland water bodies, including the unique physical processes that occur within and between them and must safeguard the life-supporting capacity of freshwater aquatic ecosystems.
11. The Manawatū-Whanganui One Plan NATC-P1 seeks to protect the natural character of wetlands, rivers and lakes and their margins from inappropriate subdivision, use and development. NATC-O1 requires avoiding, remedying or mitigating adverse effects in areas outside of high and outstanding natural character. The objective also seeks to rehabilitate or restore natural character. NATC-P2 outlines how natural character is to be preserved and protected, and sets out the scenarios where subdivision, use or development must generally (but without limitation) be considered appropriate. It's not clear whether the National Planning Standards factored in the confusion that might occur when two regional policy

statements and a district plan all employed exactly the same numbering (NATC-O1, P1 and P2) in one document.

12. This plan must also give effect to the outcomes in the Waikato River Vision and Strategy, a number of provisions in the natural character chapter place particular emphasis on protecting the Upper Waipa sub-catchments which also broadly align to the karst overlay areas and are highly sensitive to changes in hydrological conditions. The natural character chapter has the specific aim of addressing the following issues:
 - The preservation of the natural character of wetlands, and lakes and rivers and their margins as a matter of national importance. This means that district plans must protect their values from inappropriate subdivision, use and development.
 - Water bodies are of particular spiritual and intrinsic significance to mana whenua.
 - Activities in close proximity to water bodies can adversely affect their natural qualities and character.
 - Earthworks and vegetation clearance can adversely affect water quality as well as natural character use, enjoyment and appreciation of them.
 - Water quality is particularly important to the karst formations and karst ecosystems.

2.3 Statutory Requirements

Resource Management Act

13. This plan has been prepared in accordance with the Council's functions under the RMA, specifically Part 2, sections 31, 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32. The section 32 report which addresses this chapter sets out how the relevant national policy statements, national environmental standards, provisions of the Waikato Regional Policy Statement, the Manawatū-Whanganui One Plan, the Maniapoto Environmental Management Plan, the Waikato Tainui Environment Management Plan 2018 and Te Ture Whaimana o Te Awa o Waikato - The Vision and Strategy for the Waikato River have been assessed and considered.

3. Consideration of submissions received

3.1 Overview of submissions

14. The table of submissions is contained in Appendix 1 of this report. 68 submission points and further submission points were received on the natural character chapter.

3.2 Structure of this report

15. This report is structured into 3 topic areas, being:

Topic 1: Policies
Topic 2: Rules
Topic 3: Other matters

4. Analysis and Recommendations

Topic 1: Policies

16. NATC-P1 sets out the policy goals necessary to achieve the 'protection and enhancement' direction contained in NATC-O1. It reads:

NATC-P1. Protect and enhance the qualities and values of wetlands, and lakes and rivers and their margins by:

1. Requiring that activities are setback from wetlands, lakes and rivers; and
2. Avoiding activities which could generate effects that compromise the values of wetlands, and lakes and rivers and their margins; and
3. Ensuring the location, scale, intensity and form of subdivision, use and development are appropriate; and
4. Avoiding any activity, particularly earthworks and vegetation clearance, where this will adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and
5. Avoiding developments in locations that are of significance to mana whenua; and
6. Providing for plantation forestry and mineral extraction activities only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and
7. Providing for the continued operation of lawfully established farming activities and recreational hunting.

17. Manulife Forest Management (NZ) Ltd request the NATC-P1.7 is amended to provide for lawfully established plantation forestry activities. This submission point does raise the question as to whether the net has been cast widely enough in terms of this policy point. For example, the chapter applies to urban areas but there is no mention of lawfully established urban activities. It may be more appropriate to refer simply to 'lawfully established' activities rather than to restrict the policy to farming. This would require a similar amendment to NATC-P2.6 and Graymont (43.57) gives scope to change this. The proposed amendment is shown below and it is recommended that the submission point is accepted in part.
18. Fish and Game request a new policy point to provide for the continued operation of game bird hunting. It is considered that this is adequately provided for by NATC-P1.7 which refers to recreational hunting. As this matter is provided for it is recommended that the submission point is accepted in part.
19. Graymont requests the NATC-P1 header sentence is amended to refer to protection from the 'adverse effects of inappropriate subdivision, use and development'. Horticulture New Zealand request NATC-P1.1 is changed to require that inappropriate activities are setback from wetlands, lakes and

rivers. NATC-P1 and P2 respond to NATC-O1 in different ways. As noted above, NATC-P1 sets out the policy goals necessary to achieve the 'protection and enhancement' direction and NATC-P2 sets out the policy considerations which must be examined when assessing whether an activity is appropriate or inappropriate. As such, these changes are not necessary as NATC-P2 covers this assessment.

20. Graymont suggest an effects management hierarchy approach – avoid first then remedy or mitigate, is applied to NATC-P1.2 and P1.4. It is considered that the policy does not require amendment, and it is correct to employ the absolute "avoid" in this instance as RMA section 6(a) directs preservation of natural character and protection from inappropriate activities.
21. Graymont also request an amendment to NATC-P1.5 which would read: 'Ensuring developments in locations that are of significance to mana whenua appropriately assess those effects and any resulting development is managed in a way that protects the values of the site'. Again, in this instance it is considered correct to employ 'avoid'. The activities in the chapter default to restricted discretionary or discretionary which allows for broad consideration of the effects of the activity on the relationship of mana whenua and their culture and traditions with the site. As such, no change is recommended.
22. Forest and Bird request that mineral extraction activities are added to NATC-P1.4 so the policy point would read: 'Avoiding any activity, particularly earthworks, mineral extraction activities and vegetation clearance, where this will adversely affect the qualities and values of wetlands, and lakes and rivers and their margins'. It is considered that mineral extraction activities are already adequately provided for by NATC-P1.6 which reads: 'Providing for plantation forestry and mineral extraction activities only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins'. As such no change is recommended.
23. Forest and Bird and the Waikato Regional Council (WRC) request NATC-P1 is amended to provide for the continued operation of lawfully established activities, only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins. Forest and Bird also propose this amendment to NATC-P2.6. A similar amendment was proposed in the natural features and landscapes chapters and there it was noted that the plan cannot make this provision. Lawfully established activities have the inherent right to continue to operate within the parameters prescribed by a resource consent, existing use right or permitted activity rule. District plans cannot override this right.
24. Forest and Bird and WRC request two additions to NATC-P1:
 - Promoting the enhancement, restoration, and rehabilitation of the natural character of wetlands and lakes and rivers and their margins, giving special regard to areas where the natural character of wetlands and lakes and rivers and their margins have been compromised.
 - Safeguarding the life-supporting capacity of the freshwater habitats

and maintaining or enhancing indigenous biodiversity and the functioning of their ecosystems.

25. It is agreed that these matters should be provided for as they respond to WRPS NATC-M1 which states that district plans must have particular regard to safeguarding the life-supporting capacity of freshwater aquatic ecosystems. They also respond to Manawatū-Whanganui NATC-O1 which seeks to rehabilitate or restore natural character. The recommended amendments can be shortened in light of the header sentence and would read:

NATC-P1. Protect and enhance the qualities and values of wetlands, and lakes and rivers and their margins by:

1. Requiring that activities are setback from wetlands, lakes and rivers; and
2. Avoiding activities which could generate effects that compromise the values of wetlands, and lakes and rivers and their margins; and
3. Ensuring the location, scale, intensity and form of subdivision, use and development are appropriate; and
4. Avoiding any activity, particularly earthworks and vegetation clearance, where this will adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and
5. Avoiding developments in locations that are of significance to mana whenua; and
6. Providing for plantation forestry and mineral extraction activities only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and
7. Providing for the continued operation of lawfully established farming activities and recreational hunting; and
8. Promoting restoration and rehabilitation, giving special regard to areas where natural values have been compromised; and
9. Safeguarding the life-supporting capacity of freshwater ecosystems and maintaining or enhancing indigenous biodiversity.

26. Section 32AA: See Appendix 3

27. NATC-P2 sets out the policy considerations which must be examined when assessing whether an activity is appropriate or inappropriate to achieve the second part of the direction contained in NATC-O1. It reads:

NATC-P2. When considering the appropriateness of subdivision, land use or development activities, ensure the values of wetlands, and lakes and rivers and their margins are preserved by:

1. Assessing the functional necessity of the activity being located in or near wetlands, and lakes and rivers and their margins; and
2. Recognising the potential for restoration, rehabilitation or enhancement of natural character to mitigate the adverse effects of an activity; and
3. Ensuring sufficient development setbacks are in place; and

4. Avoiding the significant adverse effects of subdivision, use and development where these would damage, diminish or compromise natural character; and
5. Ensuring that activities are carried out in a way that maintains or enhances water quality; and
6. Providing for the continued operation of lawfully established farming activities; and
7. Recognising and protecting the following natural elements, patterns, processes and experiential qualities which contribute to natural character:
 - (i) Waterbodies in their natural states or close to their natural state; and
 - (ii) Freshwater landforms and landscapes; and
 - (iii) Freshwater physical processes, including the movement of water and sediment; and
 - (iv) Biodiversity; and
 - (v) Biological processes and patterns; and
 - (vi) Water flows and levels, and water quality; and
 - (vii) The experience of the above elements, patterns and processes.

28. Graymont request that NATC-P2 is amended to provide for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources. This amendment is not considered necessary. NATC-R5 exempts the rural production zone hydroelectric power generation sites from the provisions of the chapter. The network utilities chapter (other regionally significant infrastructure) contains setback provisions. RPROZ-R27 provides for minimum setbacks from water bodies for quarrying activities, mineral prospecting and exploration and RPROZ-P4.4 provides the policy support. RPROZ-P4.4 is proposed in the section 42A Report for the rural production zone to read:

'Enable scheduled activities in the rural production zone, provided that the adverse effects of the activities are internalised, or avoided, remedied or mitigated as far as practicable through methods such as management practices, rehabilitation plans and mitigation measures that include... Avoiding [remedying or mitigating](#) adverse effects on water bodies'

29. It is noted that regionally significant industry and buildings associated with significant mineral resources would have to comply with the provisions of the chapter but it is not considered necessary to add policy support. The activities in this chapter are restricted discretionary and discretionary and it is considered that any application can stand on its own merits.
30. The Department of Conservation (DoC) request that NATC-P2.1 is amended to refer to 'functional need' rather than 'functional necessity'. This is agreed. The term 'functional need' is employed in the National Planning Standards, and it is appropriate use consistent terms wherever possible. DoC also request that the header sentence is amended to read: 'wetlands, and lakes and rivers and their margins are preserved, restored and enhanced'. RMA section 6(a) refers only to preservation and protection. NATC-P2.2 and the amendment to NATC-P1 proposed above are considered to appropriately encompass restoration and enhancement. As such, no change is recommended but it is proposed to accept the submission point in part given this matter is already provided for and there is an amendment to 'functional necessity'.

31. Forest and Bird request that NATC-P2.5 is reworded to read: 'Ensuring that activities are carried out in a way that maintains or improves water quality and ecosystems of indigenous biodiversity'. This is agreed in part. The current wording refers to 'maintains or enhances' and therefore the use of the word 'improves' is not necessary. Referring to 'ecosystems of indigenous biodiversity' is a bit confusing and a better approach might be the one recommended for NATC-P1.9 which uses 'freshwater ecosystems'. The recommended amendment is shown below. WRC make a similar submission point (10.96) which is addressed by these proposed changes.
32. Federated Farmers request NATC-P2.4 is amended to refer to 'inappropriate' subdivision, use and development. With the header sentence, the policy point currently reads: When considering the appropriateness of subdivision, land use or development activities, ensure the values of wetlands, and lakes and rivers and their margins are preserved by avoiding the significant adverse effects of subdivision, use and development where these would damage, diminish or compromise natural character.
33. The policy is asking a person assessing a proposal to consider how appropriate the activity on the basis of whether values are preserved. By adding 'inappropriate', the direction to evaluate 'appropriateness' is confused. This is because the direction is to determine whether the activity is appropriate in the first place by evaluating whether certain effects can be avoided. On balance, this amendment may confuse interpretation of the policy point and an amendment is not recommended.

NATC-P2. When considering the appropriateness of subdivision, land use or development activities, ensure the values of wetlands, and lakes and rivers and their margins are preserved by:

1. Assessing the functional need necessity of the activity being located in or near wetlands, and lakes and rivers and their margins; and
2. Recognising the potential for restoration, rehabilitation or enhancement of natural character to mitigate the adverse effects of an activity; and
3. Ensuring sufficient development setbacks are in place; and
4. Avoiding the significant adverse effects of subdivision, use and development where these would damage, diminish or compromise natural character; and
5. Ensuring that activities are carried out in a way that maintains or enhances water quality and freshwater ecosystems; and
6. Providing for the continued operation of lawfully established farming activities; and
7. Recognising and protecting the following natural elements, patterns, processes and experiential qualities which contribute to natural character:
 - (i) Waterbodies in their natural states or close to their natural state; and
 - (ii) Freshwater landforms and landscapes; and
 - (iii) Freshwater physical processes, including the movement of water and sediment; and
 - (iv) Biodiversity; and
 - (v) Biological processes and patterns; and
 - (vi) Water flows and levels, and water quality; and

- (vii) The experience of the above elements, patterns and processes.

34. Section 32AA: See Appendix 3

Topic 2: Rules

35. NATC-R1 sets out the circumstances where non-significant indigenous vegetation may be removed within 5m of the edge of a water body. If clearance is undertaken within a significant natural area, the rules in the ecosystems and indigenous biodiversity chapter apply. For vegetation clearance within 10m of a natural wetland the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 apply. NATC-R1 provides for the removal of indigenous vegetation as a permitted activity in the following circumstances:

- Under the direction of the Department of Conservation on public conservation estate or Waitomo District Council on a Council reserve.
- In accordance with a Queen Elizabeth II Covenant, Nga Whenua Rahui Kawenata, Heritage Protection Order or covenant under the Reserves Act 1977 or Conservation Act 1987 or other relevant order, covenant, consent notice or encumbrance.
- To remove, dead or damaged indigenous vegetation or indigenous vegetation presenting an imminent danger to human life; or
- Within 2m of a fenceline, to maintain or construct perimeter fences to exclude stock from a water body.
- For maintenance purposes on or within 2m of existing roads, tracks or water intake/discharge structures.
- For pest management activities as identified in the Waikato Regional Pest Management Plan.
- For conservation activities.

36. The New Zealand Agricultural Aviation Association and Heli A1 Limited request the definition of conservation activities is amended to provide for weed and pest control and the intermittent use of aircraft for conservation purposes. Significant amendments were made to the definition of agricultural aviation activities in the general rural zone Section 42A Report which should provide for the submitters' concerns. The definition now includes 'conservation activities for biosecurity, or biodiversity purposes'. Given this proposed change provides the same relief it is recommended that the submission points are accepted in part.

agricultural aviation activities means the intermittent operation of an aircraft from a rural airstrip or farm helipad for primary production activities, and; conservation activities for biosecurity, or biodiversity purposes; including firefighting, stock management, and the application of fertiliser, agrichemicals, or vertebrate toxic agents (VTA's). For clarity, aircraft includes fixed-wing aeroplanes, helicopters, and unmanned aerial vehicles (UAV's).

37. The Queen Elizabeth the Second National Trust (QEII Trust) request the rule is modified to provide for vegetation disturbance for conservation purposes only. A similar change was considered in the ecosystems and indigenous biodiversity chapter, and it was considered to be acceptable. It

is recommended that the same wording amendment as proposed in the ecosystems and indigenous biodiversity chapter is applied to NATC-R1. The amendment is shown below.

38. Hort NZ request the rule applies to *'the removal of material infected by unwanted organisms under the Biosecurity Act 1993'*. It is agreed that the removal of material infected by unwanted organisms under the Biosecurity Act 1993 could be added to the rule as this has a positive impact on biodiversity values. The recommended amendment is shown below.
39. Two additional amendments are recommended. Both are consequential changes that result from amendments made to ECO-R3 and ECO-R9 in the ecosystems and indigenous biodiversity chapter. The changes have the effect of aligning the wording in both chapters which will ease interpretation of the provisions across the plan. The recommended amendments are shown below in NATC-R1.1(iii) and (vi) and relate to the Regional Pest Management Plan and removal of vegetation where there is an imminent threat to human life.

NATC-R1.	Removal of indigenous vegetation within 5 m from the edge of a water body
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> The trimming, pruning or removal of indigenous vegetation can occur within 5 m from the bankfull channel width (see NATC - Figure 1) only if the activity is undertaken: <ol style="list-style-type: none"> Under the direction or control of the Department of Conservation on public conservation estate or Waitomo District Council on a Council reserve; or In accordance with the terms of a Queen Elizabeth II Covenant, Nga Whenua Rahui Kawenata, Heritage Protection Order or covenant under the Reserves Act 1977 or Conservation Act 1987 or other relevant order, covenant, consent notice or encumbrance where the works are for the purpose of conservation activities only; or To remove, dead, diseased or damaged indigenous vegetation or indigenous vegetation presenting an imminent danger threat to human life; or Within 2 m of a fenceline, to maintain or construct perimeter fences to exclude stock from a water body; or For maintenance purposes on or within 2 m of existing roads, tracks or water intake/discharge structures; or 	<p>Activity status where compliance is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> The location and extent of the activity and its effects on hydrological and ecological values of the water body; and Whether the activity would create new or exacerbate existing natural hazards, including flooding or stream bank erosion; and The extent to which the activity can be relocated to meet setback requirements from the water body; and The functional and operational need to clear indigenous vegetation; and The extent to which existing vegetation is retained in order to mitigate the effects of streambank and slope erosion, sedimentation, water quality degradation and loss of indigenous species habitat; and The location, timing of construction, design and density of soil disturbance and vegetation removal activities and any rehabilitation measures proposed; and Effects on the relationship of mana whenua and their culture and traditions with the site and any wāhi tapu or other taonga affected by the activity; and

<p>(vi) For pest species management and any other activities as identified in the Waikato Regional Pest Management Plan and for the removal of material infected by unwanted organisms under the Biosecurity Act 1993;</p> <p>or</p> <p>(vii) For conservation activities.</p> <p><i>Note: Also see the rules in the ecosystems and indigenous biodiversity chapter if the activity is undertaken within a significant natural area.</i></p> <p><i>Note: For vegetation clearance within 10 m of a natural wetland see the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.</i></p>	<p>(h) The extent of adverse cumulative effects at a catchment scale on hydrological and ecological values; and</p> <p>(i) Measures to avoid, remedy or mitigate adverse effects of the activity on hydrological and ecological values of the water body.</p>
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40. Section 32AA: The recommended amendments are minor in nature, clarifying the application of a notified rule, aligning a rule to another provision for consistency or clarifying scope to improve interpretation. A section 32AA evaluation is not required.
41. NATC-R3 applies to setbacks for cultivation. Cultivation must be located at least 5m from the edge of any water body as measured from the bankfull channel width. Federated Farmers request the activity status is amended from discretionary to restricted discretionary. It is agreed that the matters of discretion can be defined, and their application would result in appropriate management of environmental effects. The recommended changes are:

NATC-R3.	Setbacks for cultivation
<p>Activity Status: PER</p> <p>Where:</p> <p>1. Cultivation must be located at least 5 m from the edge of any water body as measured from the bankfull channel width (see NATC – Figure 1).</p> <p><i>Note: For land disturbance within 10 m of a natural wetland see the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.</i></p>	<p>Activity status where compliance is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>(a) The location and extent of the activity and its effects on hydrological and ecological values of the water body; and</p> <p>(b) The extent to which the activity can be relocated to meet setback requirements from the water body; and</p> <p>(c) The functional and operational need to clear indigenous vegetation; and</p> <p>(d) The extent to which existing vegetation is retained in order to mitigate the effects of streambank and slope erosion, sedimentation, water quality degradation and loss of indigenous species habitat.</p>

42. Section 32AA: See Appendix 3
43. NATC-R4 permits earthworks up to 15m³ within 5m from the edge of a water body where:
- They are under the direction of the Department of Conservation, Waikato or Manawatū-Whanganui Regional Councils or Waitomo District Council.
 - To maintain or construct perimeter fences.
 - For maintenance of culverts and bridges.
 - For maintenance associated with bank stabilisation and erosion protection.
 - For maintenance associated with stormwater detention and treatment facilities.
 - For maintenance purposes on or within 2 m of existing roads, tracks or water intake/discharge structures.
 - As part of maintenance of existing drains.
44. Graymont request the rule is amended to enable the minor upgrading of perimeter fences, to fix a spelling mistake (thank you), for minor upgrading on or within 2m of existing roads, tracks or water intake/discharge structures and as part of minor upgrading of existing drains. Strictly speaking, maintenance should not include minor upgrading, but in reality, it does. However, including upgrading (even minor upgrading) in a rule is problematic because what some view as a minor upgrade others view as a significant change. This plan tends to define “minor upgrade” where it is employed. On balance, this change is not advised as it makes the application of the rule less clear cut.
45. Federated Farmers request the rule provides for environmental protection and enhancement activities. It is agreed this is a useful addition, but as discussed in the paragraph above, it is problematic that these activities are undefined. One option is to include ‘conservation activities’ in the rule which would achieve the same outcome and is defined in the plan. The definition includes conservation planting, the restoration of wetlands and the margins of water bodies, ecosystem protection, rehabilitation or restoration works. The recommended amendment would read:

NATC-R4.	<u>Earthworks</u> within 5 m from the edge of a <u>water body</u>
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> 1. Earthworks up to 15 m³ can occur within 5 m from the bankfull channel width (see NATC - Figure 1) only if the activity is undertaken: <ol style="list-style-type: none"> (i) Under the direction or control of the Department of Conservation, Waikato or Manawatū-Whanganui Regional Councils or Waitomo District Council; or (ii) To maintain or construct perimeter fences for stock exclusion; or 	<p>Activity status where compliance is not achieved: DIS</p>

<ul style="list-style-type: none"> (iii) For maintenance of culverts and bridges; or (iv) For maintenance associated with bank stabilisation and erosion protection; or (v) For maintenance associated with stormwater detention and treatment facilities; or (vi) For maintenance purposes on or within 2 m of existing roads, tracks or water intake/discharge structures; or (vii) As part of maintenance of existing drains <u>or</u> (viii) <u>For conservation activities.</u> <p><i>Note: For earthworks within 10 m of a natural wetland see the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.</i></p>	
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46. Section 32AA: The recommended amendment introduces conservation activities into the rule. This change is minor in nature. The activity has a positive environmental effect and while it is an amendment to the rule, the impact of the change is negligible. A section 32AA evaluation is not required.

Topic 3: Other matters

47. Transpower has made a placeholder submission requesting the natural character chapter recognises the National Grid in the event that the specific National Grid policies in the National Electricity and Gas Transmission (NGET) Chapter do not prevail. It is the intention of this plan to manage activities which affect the national grid through the NGET provisions and to provide specific provisions relating to natural character through rules and the supporting policy framework in the network utilities chapter. Accordingly, it is recommended that this submission point is accepted in part.
48. KiwiRail have requested the exemptions contained in NATC-R5 are amended to provide for the operation and maintenance of existing railway corridors. Currently the exemptions provide for the operation and maintenance of existing district roads, bridges and state highways. Omitting railway corridors from this list is an oversight and it is agreed it should be added to the exemptions. The recommended amendment would read:

NATC-R5.	Exemptions
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1. The following activities are exempt from the provisions of NATC – Table 1:
 - (i) Municipal water supply intake structures and buildings; and
 - (ii) Rural water supply intake structures; and
 - (iii) Municipal wastewater discharge structures and buildings; and

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- (iv) Structures, earthworks or vegetation clearance for flood management or protection purposes or drainage works where these are undertaken by the Waikato or Manawātū-Whanganui Regional Councils, Waitomo District Council or on their behalf by an approved contractor; and
 - (v) The operation and maintenance of existing district roads, bridges, [railway corridors](#) and state highways; and
 - (vi) Earthworks and vegetation clearance required in the event of a track being destroyed by flooding or landslide or other natural hazard and there are no alternative options to obtain access to undertake existing farming activities or to access an existing residential unit; and
 - (vii) The following sites in the rural production zone with a primary purpose of hydroelectric power generation: RPROZ-14 Wairere Hydro Power Station, Aria Road and RPROZ-15 Mokauiti Hydro Power Station, Totoro Road and RPROZ-16 Speedies Road Hydro Power Station, Speedies Road and RPROZ-17, Boulder Creek Road Hydro Power Station, Waipa Valley Road; and
 - (viii) Provisions specific to new hydro-electricity generation activities are contained in the [energy chapter](#).

Note: For vegetation clearance, land disturbance and earthworks within 10 m of a natural wetland see the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

- 49. Section 32AA: The change amends an oversight which should have included railway corridors as part of the transport network. This change is minor in nature and an expected exemption. A section 32AA evaluation is not required.
- 50. Manulife Forest Management (NZ) Ltd request the whole chapter is amended to align with the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017. The plan currently takes the approach of only referring to the regulations in instances where the plan prevails over them. In those situations, a note is added which reads: *Note: This rule prevails over the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017*. This means it is very clear to plan users that unless an advice note states otherwise, the regulations prevail. This approach was adopted from the guidance produced by the Ministry for Primary Industries when the regulations were first introduced. As such no change is recommended.
- 51. Notwithstanding the above paragraph, PF Olsen request that an advice note is added to NATC-Table 1 to advise that plantation forestry activities are regulated under the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 and are not managed through the district plan. It is agreed that this is a useful addition and may satisfy Manulife's submission point. However, it is not strictly correct that plantation forestry is not managed by this plan and so a small amendment is proposed as follows:

[*Note: Unless otherwise stated, commercial forestry activities are regulated under the Resource Management \(National Environmental Standards for Commercial Forestry\) Regulations 2017.*](#)

- 52. Section 32AA: The recommended amendment introduces an explanation on how commercial forestry is managed in this chapter. It has no material

effect on the rule or policy framework. A section 32AA evaluation is not required.

53. Forest and Bird request that the overview is amended to include an explanation that this chapter does not provide specifically for natural character of the coastal environment, but rather this is addressed by the coastal environment chapter. It is agreed that the way natural character is apportioned under the National Planning Standards is confusing but likely unavoidable given the context of RMA section 6(a). Currently the chapter has an advice note regarding setbacks and NATC-Table 1 states that the rules apply outside the coastal marine area. Additionally, the chapter title refers to wetlands, lakes, rivers and their margins. However, the overview would benefit from clarifying this. The recommended amendment would read:

[Please note that natural character of the coastal environment is addressed in the coastal environment chapter.](#)

54. Section 32AA: The recommended amendment signposts readers to aspects of the plan that are managed in another chapter. This assists plan users with interpretation. It has no material effect on the rule or policy framework. A section 32AA evaluation is not required.

APPENDIX 1 SUBMISSIONS TABLE

APPENDIX 2 AMENDMENTS TO THE NATURAL CHARACTER CHAPTER

Strikethrough is shown as an addition or
~~deletion~~

APPENDIX 3 SECTION 32AA EVALUATION

1. A section 32AA evaluation is only required for any changes that are proposed to the provisions of this plan since the original section 32 evaluation report for the proposal was completed. The section 32AA evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.