

# Waitomo District Council

Hearing on submissions on the Proposed Waitomo District Plan

## Report and Decisions of the Independent Hearing Commissioners

Decision Report:

Chapter 27. Natural Character

19 June 2025

Commissioners

Greg Hill (Chair)

**Wikitōria Tāne**

Allan Goddard

Phil Brodie

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# 1. Introduction

1. This Decision Report relates to all the submissions received by the Waitomo District Council (Council) on Chapter 27 Natural Character. This includes related provisions within the Proposed Waitomo District Plan (PDP) such as Definitions (Chapter 9) and Appendices and Schedules (Part 4).
2. The chapter seeks to preserve the natural character and values of water bodies and their margins and protect them from inappropriate subdivision, use, and development by managing nearby activities and recognising their ecological, cultural, and hydrological significance.

## 2. Hearing arrangements

3. The hearing was held in person and online on Wednesday 27 and Thursday 28 November **2024 in Council's offices at 15 Queen Street, Te Kūiti**. All of the relevant information pertaining to this hearing (i.e., section 42A reports, legal submissions **and evidence**) **is contained on Council's website**.
4. The following parties submitted on this chapter.

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)

### 3. Section 42A Report and Addendum Report

5. Unless otherwise stated in the Panel decision below, the Panel has elected to adopt the outcomes of the Section 42A Report and further amendments made in the Section 42A Addendum Report on this chapter.

### 4. Panel decision

6. Having considered the submissions and evidence presented, the Panel acknowledges the importance of the chapter in giving effect to section 6(a) of the RMA and to the Waikato River Vision and Strategy. The Panel agrees that the chapter appropriately manages the effects of land use and development on the natural character and values of rivers, lakes, wetlands, and their margins. As such, the Panel agreed with the purpose of the chapter and found that the provisions:

- Appropriately managed activities including buildings, structures, effluent disposal, and earthworks near water bodies to preserve natural character.
  - Seek to reflect the cultural spiritual, and ecological significance of water bodies to mana whenua and the broader community.
  - Provide a justified emphasis on protecting the Upper Waipa sub-catchments, which are both ecologically sensitive and important to the health of the Waikato River catchment.
  - Appropriately align with the karst overlay areas to ensure an integrated approach to managing hydrologically sensitive environments.
7. **The Panel noted the Waikato Regional Council’s written support for** the additional clauses proposed to NATC-P1 and amendments to the text in NATC-P2 to promote restoration and rehabilitation, and the safeguarding of life-supporting capacity and freshwater ecosystems of wetlands, lakes and rivers and their margins.
  8. On Thursday 28<sup>th</sup> November, Benjamin Murray and Terry Calmeyer appeared at the hearing on behalf of Graymont (New Zealand) Ltd. Graymont opposed NATC-P1 and P2 on the basis that the policies were overly restrictive, should provide for the continued operation of lawfully established activities, particularly those important on a regional or national scale and should be recast to provide a more balanced approach.
  9. The Panel agreed with Ms Calmeyer, noting her point that the National Environmental Standard for Freshwater provides a consenting pathway for quarries associated with wetlands. **The Panel agreed that the absolute “avoid” in the policy points needed to be tempered and decided on changes to NATC-P1.2, P1.4 and P1.5 that were similar in nature to those proposed by Ms Calmeyer, but slightly more succinct.**
  10. The Panel adopted in full the addition to NATC-P2 proposed by Ms Calmeyer. The Panel agreed it was appropriate and in line with the Waikato Regional Policy Statement to explicitly provide for nationally and regionally significant minerals, infrastructure and industry in the policy. The Panel directed the following changes in green:

NATC-P1. Protect ~~the natural character and enhance the qualities and values~~ of wetlands, and lakes and rivers and their margins ~~from inappropriate subdivision, use, and development~~ by:

1. Requiring that activities are setback from wetlands, lakes and rivers; and
2. Avoiding as far as practicable, 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 as far as practicable, 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 where these do not protect the identified values of the site; 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.

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. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and
8. 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.

11. The above change to NATC-P2 **has the effect of altering Graymont's submission** point 43.57 from Accept in Part to Accept. The same change occurs for FS10.20 King Country Energy where the submission point also changes from Accept in Part to Accept. For the New Zealand Speleological Society FS17.10 changes from Accept in Part to Reject.

12. The Panel did not agree to the changes proposed by Ms Calmeyer to NATC-R4. These related to including 'minor upgrading' in the rule and an associated definition. The Panel was of the view that minor upgrading was a term that was contestable and difficult to uniformly interpret. The Panel considered that Graymont could continue to operate successfully under the rule's provisions which refer to 'maintenance'. The Panel considered that maintenance could include the replacement of structures with 'like for like' structures and encompass the replacement of parts without triggering the **rule's** provisions.
13. Otherwise, unless stated in the Panel decision above, the Panel has elected to adopt the recommendations in the Section 42A Report and the Section 42A Addendum Report on this chapter.

## 5. Conclusion

14. The Panel accepts the recommendations in the section 42A reports and where noted above, the evidence filed by the submitters. The reasons for this are those set out in the section 42A reports, the evidence, and provided in this Decision; collectively forming the section 32AA assessment informing this Decision.
15. Overall, the Panel is satisfied that the provisions of the chapter, as amended, preserve the natural character and values of water bodies and their margins and protect them from inappropriate subdivision, use, and development.
16. The Panel accepts, accepts in part, or rejects the submissions as set out in the section 42A reports.

For the Hearing Panel



Greg Hill, Chair  
Dated: 19 June 2025

## 6. Appendix 1 – Submission Table



## Natural character – Submission points in order of plan provision

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
08.29	Manulife Forest Management (NZ) Ltd (MFMNZL)	Amend	Whole chapter	Amend to align with NES-PF.	Reject
FS19.137	PF Olsen	Support		Allow submission points where there is alignment with the PF Olsen submission	Reject
FS23.36	Te Nehenehenui	Support in part		Support in part where the submission points do not conflict with TNN's submission or other supported submissions	Accept
53.49	Department of Conservation (DoC)	Support	Natural Character Provisions	Retain as notified, except where specific changes are requested below.	Accept in part
47.125	Forest and Bird	Support with amendment	Overview	Amend the overview of the Natural Character chapter to include an explanation that this chapter does not provide specifically for natural character of the coastal environment with respect to the NZCPS. The natural character of the coastal environment is addressed by the CE chapter.  And  Any consequential changes or alternative relief to achieve the relief sought.	Accept
53.50	DoC	Support	NATC-O1	Retain as notified.	Accept
08.30	MFMNZL	Oppose in part	NATC-P1	Amend NATC-P1 to include plantation forestry.  7. Providing for the continued operation of lawfully established farming <u>and</u> <u>plantation forestry</u> activities and recreational hunting.	Accept in part
FS19.138	PF Olsen	Support		Allow submission points where there is alignment with the PF Olsen submission	Accept in part
FS23.37	Te Nehenehenui	Support in part		Support in part where the submission points do not conflict with TNN's submission or other supported submissions	Accept in part
18.12	Auckland/Waikato Fish and Game	Seek	NATC-P1	Amend Policy NATC-P1:	Accept in part

	Council (AWFG)	amendment		Add in an 8th value: <u>8. providing for the continued operation of game bird hunting.</u>	
19.18	PF Olsen	Oppose	NATC-P1	<p>Include the following advice in NATC - Table I - Activities Rules introduction that states (or words to similar effect):</p> <p><u>Plantation forestry activities are regulated under the National Environmental Standards for Plantation Forestry 2017 (NES-PF) and are not managed through the District Plan.</u></p>	Accept in part
FS23.72	Te Nehenehenui	Oppose		<p>Te Nehenehenui seeks to enhance the protection and maintenance of its people and taonga within the taiao as guided by Ko Tā Maniapoto Mahere Taiao – Maniapoto’s Environmental Management Plan.</p> <p>Where submission points do not align with this, or have the potential to negatively impact on iwi, hapu, whanau cultural values, sites, the taiao and all taonga within TNN area of interest, TNN opposes and requests that Waitomo District Council consider this when finalising the review.</p>	Reject
43.56	Graymont (NZ) Ltd	Oppose	NATC-P1	<p>Amend NATC-P1 as follows:</p> <p>Protect and enhance the qualities and values of wetlands, and lakes and rivers and their margins <u>from the adverse effects of inappropriate subdivision, use and development</u> by:</p> <ol style="list-style-type: none"> <li>1. Requiring that activities are setback from wetlands, lakes and rivers; and</li> <li>2. Avoiding <u>in the first instance, and where avoidance is not practicable, remedying or mitigating</u> activities which could generate effects that compromise the values of wetlands, and lakes and rivers and their margins; and ...</li> <li>4. Avoiding <u>in the first instance, and where avoidance is not practicable, remedying or mitigating</u> 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</li> <li>5. <del>Ensuring</del> <u>Avoiding</u> developments in locations that are of significance to mana whenua <u>appropriately assess those effects and any resulting development is managed in a way that protects the values of the site;</u> and ...</li> </ol>	Accept in part
FS03.93	DoC	Oppose		Disallow	Accept in part
FS26.13	Waikato Regional	Oppose		This submission point is not adopted.	Accept in part

	Council (WRC)				
FS17.09	NZ Speleological Society	Oppose		Disallow	Accept in part
47.126	Forest and Bird	Support with amendment	NATC-P1	<p>Amend NATC-P1 as follows:</p> <p>4. Add mineral extraction</p> <p>7. Providing for the continued operation of lawfully established farming activities and recreational hunting, <u>only where the operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins</u></p> <p><u>And</u></p> <p>Add the following clauses or similar to NATC-P1</p> <p><u>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.</u></p> <p><u>Safeguarding the life-supporting capacity of the freshwater habitats and maintaining or enhancing indigenous biodiversity and the functioning of their ecosystems.</u></p> <p><u>And</u></p> <p>Any consequential changes or alternative relief to achieve the relief sought.</p>	Accept in part
FS05.98	Federated Farmers	Oppose		Decline the relief sought	Accept in part
FS08.12	Graymont (NZ) Ltd	Oppose		Disallow	Accept in part
27.42	Horticulture New Zealand (Hort NZ)	Support with amendment	NATC-P1	<p>Amend NATC-P1 (1) as follows:</p> <p>Requiring that <u>inappropriate</u> activities are setback from wetlands, lakes and rivers.</p>	Reject
10.93	WRC	Amend	NATC-P1.7 and NATC-	<p>Reword these policies to: "Providing for the continued operation of lawfully established farming activities and recreational hunting, <u>only where the ensuing the operations do not adversely affect the qualities and</u></p>	Reject

			P2.6	<u>values of wetlands, and lakes and rivers and their margins</u> " or words to a similar effect.	
FS03.37	DoC	Support		Allow	Reject
10.94	WRC	Amend	NATC-P1	Add the following clause (or similar) to the policy: " <u>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 were compromised.</u> "	Accept
FS03.38	DoC	Support		Allow	Accept
FS30.05	Transpower (New Zealand) Ltd (Transpower)	Oppose		Disallow	Reject
10.95	WRC	Amend	NATC-P1	Add the following clause (or similar) to the policy:  " <u>Safeguarding the life-supporting capacity of the freshwater habitats and maintaining or enhancing indigenous biodiversity and the functioning of its ecosystems.</u> "	Accept
FS03.39	DoC	Support		Allow	Accept
FS30.06	Transpower	Oppose		Disallow	Reject
31.63	Transpower	Support and amend	Chapter and NATC-P1 and P2	Amend Chapter 19 - Natural Character to recognise the National Grid, specifically NATC-P1 and NATC-P2, to give effect to the NPSET, in the event that the specific Chapter 19 National Grid policies do not prevail.  And  Any consequential amendments.	Accept in part
43.57	Graymont (NZ) Ltd	Oppose	NATC-P2	Amend NATC-P2 as follows:  6. Providing for the continued operation of lawfully established <del>farming</del> activities; and 7. <u>Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and</u>	Accept

				Recognising ...	
FS10.20	King Country Energy	Support		Allow	Accept
FS17.10	NZ Speleological Society	Oppose		Disallow	Reject
53.51	DoC	Support in part	NATC-P2	<p>Amend NATC-P2 as follows or with wording to like effect:</p> <p>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, <u>restored and enhanced</u> by:</p> <p>1. Assessing the functional <del>necessity-need</del> of the activity being located in or near wetlands, and lakes and rivers and their margins;...</p>	Accept in part
FS05.146	Federated Farmers	Oppose		Decline the relief sought	Accept in part
FS10.70	King Country Energy	Oppose		Disallow	Accept in part
FS25.34	Ventus Energy	Oppose		Disallow	Accept in part
47.127	Forest and Bird	Support with amendment	NATC-P2	<p>Amend NATC-P2 as follows:</p> <p>5. Ensuring that activities are carried out in a way that maintains <u>or improves</u> water quality <u>and ecosystems of indigenous biodiversity</u>.</p> <p>6. Providing for the continued operation of lawfully established farming activities, <u>only where the operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins.</u></p> <p>And</p> <p>Any consequential changes or alternative relief to achieve the relief sought.</p>	Accept in part
FS05.99	Federated Farmers	Oppose		Decline the relief sought	Accept in part
FS19.87	PF Olsen	Oppose in part		Allow in part the submission point	Accept in part
46.47	Federated Farmers	Support with	NATC-P2	Amend NATC-P2(4) to refer to inappropriate subdivision, use and	Reject

		amendment	Clause 4	development.  And  Any consequential amendments required as a result of the relief sought.	
FS08.06	Graymont (NZ) Ltd	Support		Allowed	Reject
10.96	WRC	Amend	NATC-P2.5	Amend the wording of this policy to: <u>"Ensuring that activities are carried out in a way that maintains or enhances water quality and ecosystems of indigenous biodiversity"</u> or words to similar effect.	Accept in part
FS03.40	DoC	Support		Allow	Accept in part
FS30.07	Transpower	Oppose		Disallow	Accept in part
04.16	New Zealand Agricultural Aviation Association (NZAAA)	Support in part	NATC-R1	Retain the rule.  Amend the definition of conservation activities as sought above to include:  <u>"(j) weed and pest control and the intermittent use of aircraft for conservation purposes"</u>	Accept in part
FS07.16	Grant Lennox	Support		Allowed	Accept in part
FS23.11	Te Nehenehenui	Oppose		Te Nehenehenui have stated support for other submitters' submission points that may be in conflict with this submission, therefore TNN oppose the points of this submission that are not aligned to our Taiao and cultural values, or those we have noted support for.	Accept in part
11.03	Queen Elizabeth the Second National Trust (QEII Trust)	Delete / amend	NATC-R1	Activity Status: PER Where:  1. 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:  (ii) In accordance with the terms of a <del>Queen Elizabeth II Covenant</del> , Ngā Whenua Rāhui Kawenata, Heritage Protection Order or	Accept

				<p>covenant under the Reserves Act 1977 or Conservation Act 1987 or other relevant order, covenant, consent notice or encumbrance; or</p> <p>OR</p> <p>1. 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:</p> <p>(ii) In accordance with the terms of a Queen Elizabeth II Covenant, Ngā Whenua Rāhui Kawenata, Heritage Protection Order or covenant under the Reserves Act 1977 or Conservation Act 1987 or other relevant order, covenant, consent notice or encumbrance; <u>AND where the works are for the purpose of conservation activities.</u></p>	
FS23.55	Te Nehenehenui	Support in part		<p>Te Nehenehenui seeks to enhance the protection and maintenance of its people and taonga within the taiao as guided by Ko Tā Maniapoto Mahere Taiao – Maniapoto’s Environmental Management Plan.</p> <p>If submission points align to enhance the protection and maintenance of its people and all taonga within the taiao and the TNN area of interest, TNN is in support of these points.</p>	Accept
12.16	Heli A1 Limited	Support in part	NATC-R1	<p>Retain the rule and add.</p> <p>Amend the definition of conservation activities as sought above to include:</p> <p><u>“(j) weed and pest control and the intermittent use of aircraft for conservation purposes”</u></p>	Accept in part
FS13.38	NZAAA	Support		Retain the rule and add to the definition as sought	Accept in part
FS15.19	New Zealand Helicopter Association	Support		Retain the rule and add to the definition as sought	Accept in part
18.13	AWFG	Support	NATC-R1	Retain as notified.	Accept in part
27.43	Hort NZ	Support with amendment	NATC-R1	<p>Amend NATC-R1 (vi) as follows:</p> <p><u>And removal of material infected by unwanted organisms under the Biosecurity Act 1993.</u></p>	Accept
18.14	AWFG	Support	NATC-R2	Retain as notified.	Accept

27.44	Hort NZ	Support	NATC-R3	Retain NATC-R3 as notified.	Reject
46.48	Federated Farmers	Oppose with amendment	NATC-R3	Amend NATC-R3 to default to restricted discretionary activity status rather than discretionary status where cultivation is to occur within 5 m of a waterbody.  And  Any consequential amendments required as a result of the relief sought.	Accept
FS03.94	DoC	Oppose		Disallow	Reject
FS23.230	Te Nehenehenui	Oppose		Te Nehenehenui seeks to enhance the protection and maintenance of its people and taonga within the taiao as guided by Ko Tā Maniapoto Mahere Taiao – Maniapoto’s Environmental Management Plan.  Where submission points do not align with this, or have the potential to negatively impact on iwi, hapu, whanau cultural values, sites, and all taonga within TNN area of interest, TNN opposes submission points of this nature and requests that Waitomo District Council consider this when finalising the PDP review.	Reject
43.58	Graymont (NZ) Ltd	Support with amendment	NATC-R4	Amend NATC-R4 as follows:  ...  (ii) To maintain or construct <u>or for the minor upgrading of perimeter fences and fences</u> for stock exclusion; or ...  (v) For maintenance associated with stormwater detention and treatment <del>facilities</del> <u>facilities</u> ; or (vi) For maintenance purposes <u>or minor upgrading</u> on or within 2 m of existing roads, tracks or water intake/discharge structures; or  As part of maintenance <u>or minor upgrading</u> of existing drains.	Reject
FS23.198	Te Nehenehenui	Oppose		Te Nehenehenui seeks to enhance the protection and maintenance of its people and taonga within the taiao as guided by Ko Tā Maniapoto Mahere Taiao – Maniapoto’s Environmental Management Plan.  Where submission points do not align with this, or have the potential to negatively impact on iwi, hapu, whanau cultural values, sites, and all taonga within TNN area of interest, TNN opposes submission points of this nature and requests that Waitomo District Council consider this when finalising the	Accept



				PDP review.	
46.49	Federated Farmers	Support with amendment	NATC-R4	Amend NATC-R4 to include environmental protection and enhancement activities. And Any consequential amendments required as a result of the relief sought.	Accept in part
FS08.07	Graymont Ltd	Support		Allowed	Accept in part
38.70	Te Tokanganui- a- noho Whare (TTRMC)	Support	NATC	Retain the restricted discretionary criteria relating to 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 in the natural character chapter as notified.	Accept
FS20.99	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Kohanganui Whare be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maaori land.	Accept
50.20	Te Nehenehenui	Support	Restricted discretionary criteria relating to 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.	Retain the restricted discretionary criteria relating to 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 in the natural character chapter.	Accept
FS20.218	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Nehenehenui Trust be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maaori land	Accept
51.37	KiwiRail Holdings Ltd	Support with amendment	NATC-R5	Amend NATC R5 Exemptions as follows:  The following activities are exempt from the provisions of NATC – Table 1:	Accept

				<p>Municipal water supply intake structures and buildings; and</p> <p>Rural water supply intake structures; and</p> <p>Municipal wastewater discharge structures and buildings; and Structures, earthworks or vegetation clearance for flood management or protection purposes or drainage works where these are undertaken by the Waikato or Manawatū Whanganui Regional Councils, Waitomo District Council or on their behalf by an approved contractor; and</p> <p>The operation and maintenance of existing district roads, bridges, <u>railway corridors</u> and state highways;</p>	
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## 7. Appendix 2 – Decisions Version of the Chapter

## Overview

District plans must recognise and provide for matters of national importance identified in the Act. The preservation of the natural character of wetlands, and lakes and rivers and their margins is a matter of national importance, which means that this plan must protect their values from inappropriate subdivision, use and development. 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.

This plan must ensure that the effect of activities in close proximity to water bodies does not adversely affect their natural qualities and character. As such, the provisions of this section manage activities such as buildings and structures, effluent disposal and earthworks which may have an adverse effect on natural character. To give effect to the outcomes in the Waikato River Vision and Strategy, a number of provisions in this chapter place particular emphasis on protecting the Upper Waipa sub-catchments which are tributaries of the Waikato River and also broadly align to the karst overlay areas which are highly sensitive to changes in hydrological conditions. Please note that natural character of the coastal environment is addressed in the coastal environment chapter.

## Objective

*Refer also to the relevant objectives in Part 2 District - Wide Matters*

NATC-O1. The natural character of wetlands, and lakes and rivers and their margins are protected from inappropriate subdivision, use and development.

## Policies

*Refer also to the relevant policies in Part 2 District - Wide Matters*

NATC-P1. Protect the natural character of wetlands, and lakes and rivers and their margins from inappropriate subdivision, use, and development by:

1. Requiring that activities are setback from wetlands, lakes and rivers; and
2. Avoiding as far as practicable, 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 as far as practicable, 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 where these do not protect the identified values of the site; and
6. Providing for commercial 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 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.

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 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 activities; and
7. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and
8. 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.

NATC-P3. Give effect to the directions and outcomes in the Waikato River Vision and **Strategy and the Waipā Accord through provisions relating to building**

setbacks, removal of indigenous vegetation and management of earthworks in the Upper Waipa sub-catchments.

## Rules

The rules that apply to activities in proximity to water bodies are contained in the tables listed below. To undertake any activity, it must comply with the rules listed in:

- NATC - Table 1 – Activities Rules; and
- Any relevant provision in Part 2 District-Wide Matters; and
- Any relevant provision in Part 3 Area Specific Matters.

Where an activity breaches more than one rule, the most restrictive status shall apply to the activity.

[Refer to Part 1 - How the Plan Works](#) for an explanation of how to use this plan, including activity status abbreviations.

*Note: See the rules in the [coastal environment chapter](#) if the activity is undertaken adjoining a water body within the coastal marine area.*

*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.*

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

NATC - Table 1 – Activities Rules

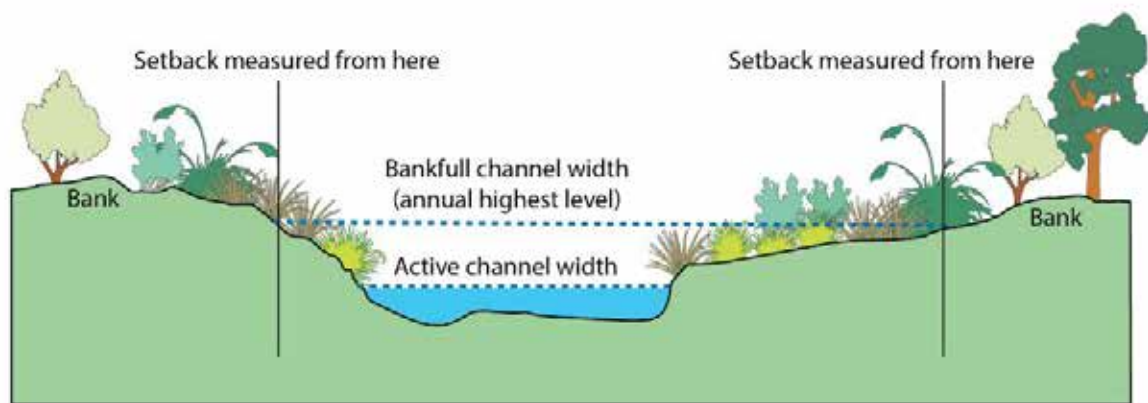
The rules in this table apply to activities adjoining <a href="#">water bodies</a> outside of the <a href="#">coastal marine area</a> in all zones	
NATC-R1.	Removal of indigenous vegetation within 5 m from the edge of a <a href="#">water body</a>
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> <li>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"> <li>Under the direction or control of the Department of Conservation on public conservation estate or Waitomo District Council on a Council reserve; or</li> <li>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</li> </ol> </li> </ol>	<p>Activity status where compliance is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> <li>The location and extent of the activity and its effects on hydrological and ecological values of the water body; and</li> <li>Whether the activity would create new or exacerbate existing natural hazards, including flooding or stream bank erosion; and</li> <li>The extent to which the activity can be relocated to meet setback requirements from the water body; and</li> </ol>

<p>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</p> <p>(iii) To remove, dead, diseased or damaged indigenous vegetation presenting an imminent threat to human life; or</p> <p>(iv) Within 2 m of a fenceline, to maintain or construct perimeter fences to exclude stock from a water body; or</p> <p>(v) For maintenance purposes on or within 2 m of existing roads, tracks or water intake/discharge structures; or</p> <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; or</p> <p>(vii) For conservation activities.</p> <p><i>Note: Also see the rules in the <a href="#">ecosystems and indigenous biodiversity chapter</a> 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>(d) The functional and operational need to clear indigenous vegetation; and</p> <p>(e) 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</p> <p>(f) The location, timing of construction, design and density of soil disturbance and vegetation removal activities and any rehabilitation measures proposed; and</p> <p>(g) 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> <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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For the purposes of NATC-R1 to R4 a water body is:

- (i) A perennial watercourse with a bankfull channel width of 3 m or more; or
- (ii) In the Upper Waipa River sub-catchments as identified on the Planning Maps, a perennial watercourse with a bankfull channel width of 2 m or more; or
- (iii) A lake equal to or larger than 0.25 ha.

NATC - Figure 1



NATC-R2.	Buildings and structures within 25 m from the edge of a water body
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> <li>Buildings or structures can be located within 25 m of a natural wetland or 25m from the bankfull channel width (see NATC - Figure 1) only if the building or structure is;             <ol style="list-style-type: none"> <li>An intake or discharge structure less than or equal to 4 m<sup>2</sup>; or</li> <li>Hydro-electricity generation of up to and including 5kW of electricity per site where the footprint of the structure is less than or equal to 2 m<sup>2</sup>; or</li> <li>A structure associated with a maimai up to 10 m<sup>2</sup> in area and no more than 2.5 m in height as measured from the floor level of the maimai; or</li> <li>A structure associated with a whitebait stand that has an area less than or equal to 4 m<sup>2</sup>; or</li> <li>A park facility or park furniture or a new publicly accessible walkway or cycleway;</li> </ol> </li> </ol> <p>AND</p> <ol style="list-style-type: none"> <li>The provisions of this rule apply to feed pads and wastewater treatment systems including domestic septic tank systems and farm effluent ponds; and</li> <li>The provisions of this rule do not apply to fences.</li> </ol>	<p>Activity status where compliance is not achieved: DIS</p>
NATC-R3.	Setbacks for cultivation
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> <li>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).</li> </ol> <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><u>Matters over which discretion is restricted:</u></p> <ol style="list-style-type: none"> <li><u>The location and extent of the activity and its effects on hydrological and ecological values of the water body; and</u></li> <li><u>The extent to which the activity can be relocated to meet setback requirements from the water body; and</u></li> <li>The functional and operational need to clear indigenous vegetation; and</li> <li>The extent to which existing vegetation is retained in order to mitigate the effects of streambank and slope erosion,</li> </ol>



	sedimentation, water quality degradation and loss of indigenous species habitat.
NATC-R4.	Earthworks within 5 m from the edge of a water body
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> <li>Earthworks up to 15 m<sup>3</sup> 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"> <li>Under the direction or control of the Department of Conservation, Waikato or <b>Manawatū</b>-Whanganui Regional Councils or Waitomo District Council; or</li> <li>To maintain or construct perimeter fences for stock exclusion; or</li> <li>For maintenance of culverts and bridges; or</li> <li>For maintenance associated with bank stabilisation and erosion protection; or</li> <li>For maintenance associated with stormwater detention and treatment facilities; or</li> <li>For maintenance purposes on or within 2 m of existing roads, tracks or water intake/discharge structures; or</li> <li>As part of maintenance of existing drains; <u>or</u></li> <li>For conservation activities.</li> </ol> </li> </ol> <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>	Activity status where compliance is not achieved: DIS
NATC-R5.	Exemptions
<ol style="list-style-type: none"> <li>The following activities are exempt from the provisions of NATC – Table 1: <ol style="list-style-type: none"> <li>Municipal water supply intake structures and buildings; and</li> <li>Rural water supply intake structures; and</li> <li>Municipal wastewater discharge structures and buildings; and</li> <li>Structures, earthworks or vegetation clearance for flood management or protection purposes or drainage works where these are undertaken by the <b>Waikato or Manawatū</b>-Whanganui Regional Councils, Waitomo District Council or on their behalf by an approved contractor; and</li> <li>The operation and maintenance of existing district roads, bridges, railway corridors and state highways; and</li> </ol> </li> </ol>	

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- (vi) Earthworks and vegetation clearance required in the event of a track being destroyed by flooding or landslip 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.*

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NATC- Table 2 - Performance Standards

*There are no Performance Standards*

## 8. 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.

### Amendment of the application of wider plan provisions

2. This chapter does not require the relevant objectives and policies of part 3 to be **considered or “all” the rules to be considered** when assessing the activity as many will be irrelevant to an application. This wording was erroneously included. RMA schedule 1, clause 16 enables a local authority to make an amendment to its proposed plan, without using the process in schedule 1, to alter any information, where such an alteration is of minor effect, *or to correct any minor errors*. Using RMA schedule 1, clause 16 the Panel has directed that the following amendments are made:

#### Objectives & Policies

*Refer also to the relevant objectives in Part 2 District - Wide Matters ~~and Part 3 – Area Specific Matters~~*

#### Rules

The rules that apply to activities in proximity to water bodies are contained in the tables listed below. To undertake any activity, it must comply with ~~all~~ the rules listed in:

- NATC - Table 1 - Activities rules; and
- Any relevant provision in Part 2 District-wide matters; and
- Any relevant provision in Part 3 Area Specific Matters.

3. There is also scope to make these amendments under BP Oil New Zealand Limited and Z Energy Limited (the Fuel Companies) submission to make any alternative or consequential relief as required to give effect to this submission, including any consequential relief required in any other sections of the proposed plan that are not specifically subject of this submission but where consequential changes are required to ensure a consistent approach is taken throughout the document.

## Policies

- NATC-P1. Protect ~~the natural character and enhance the qualities and values~~ of wetlands, and lakes and rivers and their margins ~~from inappropriate subdivision, use, and development~~ by:

1. Requiring that activities are setback from wetlands, lakes and rivers; and
2. Avoiding as far as practicable, 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 as far as practicable, 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 where these do not protect the identified values of the site; 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.

#### Other reasonably practicable options

- 4. Other options considered included simplifying the policy by removing the activity-specific references such as plantation forestry and mineral extraction, or replacing 'avoid' with 'minimise' in clauses relating to earthworks and vegetation clearance. However, these alternatives **would significantly weaken the policy's** ability to meet the requirements of Waikato Regional Policy Statement, which in line with the RMA, directs that wetlands, water bodies and other freshwater ecosystems are protected from inappropriate subdivision, use, and development. Given the sensitivity of these environments and strong policy direction from higher order documents, the proposed policy wording is the most practicable and effective approach.

#### Effectiveness and efficiency

- 5. The policy is effective in addressing the cumulative and individual effects of subdivision, development and land use on wetlands, lakes, rivers and their margins. Specific references to identified activities ensures better clarity around expectations of those activities and ultimately should help to more proactively address effects from these operations. The reference to 'avoid as far as practicable' **provides strong direction but recognises that a 'hard avoid' may not** always be possible and that mitigation is an option to help offset or compensate for adverse effects.
- 6. The policy is efficient in that it incorporates appropriate enabling clauses for lawfully established activities and encourages restoration of degraded areas. This balances protection with practical mitigation and remediation measures. Its structure is clear and directive, and therefore efficient in offering predictable outcomes for plan users and those implementing it.

#### Costs and benefits

- 7. The primary benefit of the policy is its contribution to the long-term protection and restoration of freshwater environments. It ensures that water bodies, including the most vulnerable and ecologically significant of these, are managed using measures such as setbacks, restoration and scale to help protect water bodies and freshwater ecosystems, and safeguard cultural and ecological values.

8. The costs relate to potential development constraints, especially where subdivision or resource extraction near water bodies is proposed. However, these costs are justified given the ecological and cultural sensitivity of freshwater systems and national direction. The policy avoids imposing unnecessary regulation on existing lawful land uses.

#### Risk of acting or not acting

9. The risk of acting is low. The policy is aligned with national direction and supports robust consent decision-making. It provides appropriate protection for freshwater systems while still enabling compatible activities and restoration initiatives. The risk of not acting includes potential non-compliance with national and regional direction, degradation of wetlands and water bodies as a result of unregulated, cumulative effects.

#### Decision about the most appropriate option

10. The proposed policy is the most appropriate way to achieve the purpose of the objectives and to give effect to section 6 of the RMA. It provides a directive policy framework to help safeguard freshwater environments, balance land use pressures and encourage restoration opportunities. NATC-P1 and P2 respond to NATC-O1. 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.

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. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and
8. Recognising and protecting the following natural elements, patterns, processes and experiential qualities which contribute to natural character:
  - (viii) Waterbodies in their natural states or close to their natural state; and
  - (ix) Freshwater landforms and landscapes; and

- (x) Freshwater physical processes, including the movement of water and sediment; and
- (xi) Biodiversity; and
- (xii) Biological processes and patterns; and
- (xiii) Water flows and levels, and water quality; and
- (xiv) The experience of the above elements, patterns and processes.

#### Other reasonably practicable options

11. An alternative approach was proposed by submitters to insert the term **'inappropriate' into the policy**. As an option, this would create confusion in interpretation, as the policy already directs the decision-maker to assess the appropriateness of the activity. Requiring a person to consider whether an **'inappropriate' activity is appropriate would undermine the logical flow** and intent of the policy. No other alternatives were identified that would improve the clarity or function of the policy, and therefore no change is recommended.

#### Effectiveness and efficiency

12. The policy is effective as drafted because it provides a clear framework for evaluating whether subdivision, use or development activities can be considered appropriate near wetlands, lakes, and rivers. It incorporates a sequential approach that considers functional need, opportunities for restoration, adequate setbacks and water quality outcomes. The structure allows a thorough assessment of environmental effects and supports decision-making consistent with the protection of natural character.
13. It is efficient in guiding both applicants and councils through a series of logical assessment criteria. The current drafting avoids ambiguity, particularly in respect of nationally and regionally significant activities, and supports a coherent policy application without being unnecessarily complex.

#### Costs and benefits

14. The policy enables decision-makers to evaluate the appropriateness of activities based on well-defined factors designed to contribute to the decision making required when assessing the preservation of water bodies and their values. Although the policy is long, there are no identifiable costs associated with retaining the policy in its current form. The amendments help to clarify its intent.

#### Risk of acting or not acting

15. The risk of acting on the proposed amendment is low. The role of NATC-P2 is to set out the policy considerations which must be examined when assessing whether an activity is appropriate or inappropriate. The policy attempts to avoid ambiguity by seeking to direct the assessment process. The risk of not acting is moderate to high. The policy functions as intended and aligns with higher order direction.

#### Decision about the most appropriate option

16. The most appropriate option is to retain the policy as notified. The policy aligns with section 6 of the RMA and the Waikato Regional Policy Statement. NATC-P1 and P2 respond to NATC-O1. 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.

## Rules

NATC-R3.	<a href="#">Setbacks</a> for <a href="#">cultivation</a>
<p>Activity Status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> <li>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).</li> </ol> <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: <a href="#">RDIS</a></p> <p><a href="#">Matters over which discretion is restricted:</a></p> <ol style="list-style-type: none"> <li><a href="#">The location and extent of the activity and its effects on hydrological and ecological values of the water body; and</a></li> <li><a href="#">The extent to which the activity can be relocated to meet setback requirements from the water body; and</a></li> <li><a href="#">The functional and operational need to clear indigenous vegetation; and</a></li> <li><a href="#">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.</a></li> </ol>

## Effectiveness and Efficiency

- The amendment to NATC-R3 shifts the default status from discretionary to restricted discretionary. As such, the effectiveness of the rule is improved by providing for a more targeted response to cultivation activities that do not meet the minimum 5 m setback from a water body. By from discretionary to restricted discretionary and specifying matters of discretion, the rule continues to ensure that the key environmental effects are managed while allowing flexibility in circumstances where site-specific conditions justify reduced setbacks.
- This approach is efficient because it provides certainty to applicants and decision-makers while reducing the administrative burden of processing fully discretionary consents. The specified matters of discretion directly relate to the potential adverse effects on water quality, ecological values and erosion, which ensures that the regulatory response is appropriately focused and justified.

## Costs and Benefit Assessment

- The benefits of the amendment include a more proportionate approach to managing cultivation setbacks. Applicants benefit from reduced consent uncertainty and cost when proposing activities that do not meet the permitted standards, but where the effects can be appropriately assessed and mitigated through the restricted discretionary pathway. The council retains sufficient oversight to address potential effects on water bodies while avoiding over-regulation.

20. The costs are minimal and relate primarily to the need for a restricted discretionary consent in some cases. However, this is balanced by more efficient consent processing and clearer environmental expectations than if the activity status remained discretionary. The key performance standard remains unchanged for permitted activities.

#### Risk of Acting or Not Acting

21. The risk of acting is low. The change provides a proportionate mechanism to assess cultivation near water bodies, maintaining alignment with freshwater objectives. The risk of not acting includes continued use of a full discretionary pathway, leading to more complexity and potential disincentives to engage with the consent process. This could result in lower compliance or missed opportunities for effective mitigation.

#### Decision about the Most Appropriate Option

22. The proposed amendment to NATC-R3 is the most appropriate option. It strengthens the balance between environmental protection and cultivation near water bodies, supports more efficient consenting and ensures that the values of freshwater environments are upheld through targeted assessment criteria.