
Section 32 Report for the Proposed Waitomo District Plan

Section 32 Report – Natural character

SUMMARY OF ISSUES	RESOURCE MANAGEMENT ACT 1991	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONT...
<p>The natural character chapter addresses the following issues:</p> <ul style="list-style-type: none"> 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 Water quality is particularly important to the karst formations and karst ecosystems 	<p>Section 5 RMA Preserving the natural character of wetlands, and lakes and rivers and their margins will promote the sustainable management of natural and physical resources in accordance with section 5(1). In addition, managing the activities in close proximity to wetlands, lakes and rivers will safeguard the life-supporting capacity of water, soil and ecosystems in accordance with Section 5(2)(b).</p> <p>Section 6 RMA A number of section 6 matters are relevant to this topic, including s6(a) concerning the protection of the natural character of rivers and lakes and their margins, 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.</p> <p>NATC-O1 directly reflects the wording of section 6(a). 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.</p> <p>Section 7 RMA The following clauses are relevant in section 7: Section 7(d) intrinsic values of ecosystems – managing activities and development in close proximity to waterbodies will maintain the ecosystem functions of land, water and the karst system. Sections 7(c) and 7(f) of the RMA relate to amenity values and the quality of the environment, both of which surface waterbodies contribute to.</p> <p>Section 8 RMA Given the cultural significance of waterbodies to iwi, Section 8 is highly relevant.</p>	<p>There are six National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> New Zealand Coastal Policy Statement 2010 NPS for Electricity Transmission 2008 NPS for Renewable Electricity Generation 2011 NPS for Freshwater Management 2020 NPS on Urban Development 2020 NPS for Highly Productive Land 2022 <p><u>The National Policy Statement for Freshwater Management 2020 (NPS-FM)</u> sets out an objective and policies that focus on:</p> <ul style="list-style-type: none"> Managing freshwater in a way that 'gives effect' to Te Mana o te Wai: (the integrated and holistic well-being of a freshwater body) in the management of fresh water; Prioritising the health and wellbeing of water bodies and freshwater ecosystems, followed by the health needs of people, followed by the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future; Avoiding overallocation, improving and maximising efficient allocation and use of water and safeguarding its life-supporting capacity; Improving integrated management of fresh water and the use and development of land; Establishing a national objectives framework, monitoring progress, and accounting for freshwater takes and contaminants; and Providing for the active involvement of tangata whenua in freshwater management and that Māori freshwater values are identified and provided for. <p>While many of the objectives and policies relate to the functions of regional councils, those covering integrated management, and tangata whenua roles and interests are of relevance to the Council.</p> <p><u>New Zealand Coastal Policy Statement 2010</u> Waitomo District has a large expanse of coastline including the Kawhia harbour and its rivers and tributaries. The New Zealand Coastal Policy Statement 2010 (NZCPS) will therefore be relevant to these water bodies and their margins. The extent of the coastal environment is described in the NZCPS and identified in the WRPS. Policies 13 and 14 are focused on natural character, with Policy 13 being highly directive in:</p> <ul style="list-style-type: none"> avoiding adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character, avoiding significant adverse effects on natural character in all other areas of the coastal environment avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment <p>There are also seven National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> NES for Air Quality 2004 NES for Sources of Human Drinking Water 2007 NES for Telecommunication Facilities 2016 NES for Electricity Transmission Activities 2009 NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 	<p><u>The Waikato Regional Policy Statement</u> Objective 3.7 - seeks to preserve natural character in the coastal environment Objective 3.12 (b) requires development of the built environment in a way that preserves and protects natural character Objective 3.13 seeks to maintain natural character which will therefore recognise and protect the mauri and health of marine waters 3.22 Natural character 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.</p> <p>These objectives are delivered by Policy 12.2 which ensures that activities within the coastal environment, wetlands, and lakes and rivers and their margins are appropriate in relation to the level of natural character.</p> <p>The provisions in the Natural character chapter give effect to the objectives and policies of the Waikato RPS.</p> <p><u>The Manawatū-Whanganui One Plan</u> Objective 6-2: Seeks to protect the natural character of the coastal environment, wetlands, rivers and lakes and their margins from inappropriate subdivision, use and development. The objective goes on to require avoiding adverse effects in areas with outstanding natural character, avoiding where they would significantly diminish the attributes and qualities of areas that have high natural character and avoiding, remedying or mitigating in all other areas. The objectives also seeks to rehabilitate or restore the natural character.</p> <p>Policy 6-8 sets out how natural character is to be preserved and protected Policy 6-9 sets out the scenarios where subdivision, use or development must generally (but without limitation) be considered appropriate</p> <p>The provisions in the natural character chapter give effect to the objectives and policies of the Manawatū-Whanganui One Plan</p>	<p>The Waikato Tainui Environment Management (WTEMP) Plan 2018 WTEMP provides the overarching position of Waikato-Tainui on the environment regarding natural character in the sections –</p> <ul style="list-style-type: none"> Section 11 Vision and Strategy for the Waikato river Te Ture Whaimana o te Awa o Waikato Section 19. Fresh water - Te wai maaori Section 20 Wetlands - Ngaa repo Section 21 Land - Te whenua Section 24 Coastal Environment - Te Taiao Moana Section 25 Land Use Planning - Ngaa whakaritenga moo ngaa whenua o Waikato-Tainui <p>It is considered that the proposed provisions take into account the relevant provisions in the WTEMP, as they will ensure that permitted activities will need to meet specific standards. Should these standards not be met, a resource consent process will be necessary at which time the full impact of the development can be assessed and an assessment of the WTEMP against the proposal can be undertaken.</p>
<p>OPERATIVE WAITOMO DISTRICT PLAN</p>			<p>IWI MANAGEMENT PLANS</p>	<p>OTHER RELEVANT PLANS OR LEGISLATION</p>
<p>The Operative District Plan does not have a chapter that it specifically focused on natural character, although it does appear in several chapters including:</p> <ul style="list-style-type: none"> Landscape Policy - Objective 12.3.4 To ensure that development does not adversely affect the natural character and habitat values of the coastal environment of Mokau and Awakino Rural zone – in the context of the effect of retention of vegetative cover of riparian margins, and to ensure land uses preserve the natural character of the coastal environment Conservation zone - To ensure that the natural character and existing landscape of the coastal environment is maintained and enhanced 			<p>Council is required to take into account planning documents recognised by an iwi authority and lodged with the territorial authority, and there are many provisions in these documents relevant to the management of natural character.</p> <p>Maniapoto Iwi Environment Management Plan (MIEMP) 2018</p> <p>Policy 15.3.2.1(c) requires rural and urban design standards manage the effects on the natural character of existing high value areas Policy 24.3.4.1(b) relates to the natural character of the landscape and development in the coastal areas</p> <p>It is considered that the proposed provisions take into account the provisions in the MIEMP, as they will ensure that permitted activities will need to meet specific standards. Should these standards not be met a resource consent process will be necessary at which time the full impact of the development can be assessed</p>	<p>The Conservation Act 1987 promotes the conservation of New Zealand's natural and historic resources, preserves indigenous freshwater fisheries and habitat, and advocates for conservation. Where areas of natural character overlap with any of the public conservation estate then the Conservation Act should be considered.</p> <p>Statutory acknowledgements identify the particular cultural, spiritual, historical and traditional association of mana whenua. These have been taken into account wherever areas of natural character are valued by mana whenua or have historical associations.</p> <p>Waikato and Wanganui Conservancy Management Strategies set out the long-term vision for each conservancy and identify a range of objectives relating to management of natural heritage and biodiversity within these areas. They also identify those areas of habitat</p>

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<ul style="list-style-type: none"> Te Maika zone - To ensure that the natural character, biodiversity values and existing landscape of the coastal environment at Te Maika is maintained and enhanced 		<ul style="list-style-type: none"> NES for Plantation Forestry 2017 NES for Freshwater 2020 NES for Storing Tyres Outdoors 2021 <p><u>Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017</u></p> <p>The National Environmental Standards for Plantation Forestry (the NES-PF) seek to maintain or improve the environmental outcomes associated with plantation forestry activities throughout New Zealand, including those activities that could affect rivers, lakes and streams. The NES-PF prevails over any plan rules that duplicate or conflict with it. For the proposed plan, where general rules (such as those controlling earthworks or vegetation clearance) conflict with or duplicate the NES-PF but also apply to activities not involved with plantation forestry, an advisory note or reference to the NES-PF is inserted to clarify the approach.</p>	<p>and an assessment of the MIEMP against the proposal can be undertaken.</p>	<p>and natural character that are of national importance.</p> <p>The Reserves Act 1977 has the purpose of providing for the preservation and management, for the benefit and enjoyment of the public, areas possessing some special feature or values such as recreational use, wildlife, landscape amenity or scenic value. It also has a role in ensuring, as far as practicable, the preservation of representative natural ecosystems or landscapes and the preservation of access for the public to the coastline, islands, lakeshore and riverbanks. The main intersection occurs in the role of encouraging the protection and preservation of the natural character of these areas. Where reserves need to be considered in respect of their management, provision is made in the natural character chapter for this to occur.</p>
SCALE & SIGNIFICANCE s32(1)(c)				
<p>The assessment is based on eight factors outlined in Ministry for the Environment's guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change: 3 Problem / Issue: 2 Degree of Shift from Status Quo: 3 Who and How Many Affected, Geographic Scale of Effects: 2 Degree of Impact on or Interest from Māori: 4 Timing and Duration of Effects: 2 Type of Effect: 2 Degree of Risk or Uncertainty: 3</p> <p>Total (out of 40): 21</p>		<p><u>NES for Freshwater 2020</u></p> <p>Most of the standards are relevant to regional plans, however the NES for freshwater does set standards for protecting existing inland and coastal wetlands, requiring setbacks from waterbodies for grazing and clearance of vegetation.</p> <p>Relevant case law considered</p> <p>The most relevant is the King Salmon decision and the determination of avoiding adverse effects on natural character.</p>	<p>and an assessment of the MIEMP against the proposal can be undertaken.</p>	<p>STRATEGIC DIRECTION</p> <p>The following objective from the Strategic Directions chapter of the PDP are relevant to this topic:</p> <p>SD-01. Uphold the partnership principles inherent within Te Tiriti o Waitangi by ensuring mana whenua are enabled to maintain and enhance the well-being (mauri) and health (hauora) of both people and the environment, and empowered in the expression and application of kaitiakitanga. District -</p> <p>SD-02. Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) is achieved through active measures to protect and restore the health and well-being of the Upper Waipa Catchment.</p> <p>SD-010. The buildings, structures, sites, areas, ecosystems, natural landscapes and features identified as having special qualities and values and which contribute to the district's sense of place and identity, are protected.</p> <p>SD-011. The components of the coastal environment including outstanding landscapes and features, natural character and ecosystems, together with the cultural and spiritual values accorded by mana whenua, are recognised and protected.</p> <p>SD-017. Support mechanisms which extend the restoration the district's water resources, improve their quality and intrinsic integrity for present and future generations and the care and protection of the mana tuku iho o Waiwai</p> <p>UNCERTAINTIES AND RISKS s32(2)(c)</p> <p>The location, extent and values associated with areas of natural character are an individual's personal perception. Two areas of high and very high natural character are considered in the coastal chapter of the plan. The provisions as drafted ensure that the environmental, social and cultural benefits expected by individuals are taken into account when</p>

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				<p>considering development to protect natural character. The proposed provisions (policies and rules) provide clarity of interpretation when undertaking development. The proposal is giving effect to higher order documents and the Council also considers the protection of natural character is important to the community.</p> <p>Not acting may mean that the natural character of the edges of water bodies are degraded. Should the plan be silent on controlling development in these important areas, significant areas of natural character will likely be at risk and irretrievably damaged leading to a loss of water quality.</p> <p>Overall, it is considered that there is sufficient information to act, and that risks of acting outweigh those of not acting.</p>
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OBJECTIVE(S) s32(1)(a)

Relevance
Objective NATC-01 sets out the goal for the management of natural character of wetlands, and lakes and rivers and their margins. The direction to 'protect' the natural character of wetlands, and lakes and rivers and their margins in the Waitomo area from inappropriate subdivision use and development is a section 6 matter under the RMA. Given that Waitomo district has many water bodies and significant rivers, it is important that the objective is directive and able to support appropriately strong provisions that will apply and guide development in the inland areas which in turn contribute to protecting the natural character of the coastal environment and these fragile environments. Without a strong objective Waitomo District will not be meeting its obligations under higher order documents. The objective as drafted would result in the protection of natural character. It is also expected to promote efficiencies for plan interpretation and consenting given clear district-wide provisions. It would also address relevant provisions in the NZCPS.

Usefulness
The objective will be appropriate in regard to addressing threats to natural character areas (i.e. environmentally acceptable). While this objective applies to the natural character of wetlands, lakes and rivers and their margins, other objectives and provisions in the plan control the coastal environment and together these provide a holistic approach to protecting the natural character within the Waitomo area. The objective will promote efficiencies for plan interpretation and provide clear direction for consenting purposes.

Reasonableness
Provisions will be developed that apply to natural character of the coastal environment and wetlands, and lakes and rivers and their margins. Some of these provisions will be in other sections of the plan. Activities that are considered to have a minor effect on these areas will be permitted within specific standards with rules providing for the removal of indigenous vegetation, buildings, earthworks and cultivation. Outside these standards resource consent will be required. This strict approach to protecting natural character is considered to be consistent with other districts around the region. There may be some unease from landowners and developers in regard to the strong direction and their concerns for their ability to enable the full potential of the property when undertaking development, and this unease will be dependent on how restrictive the provisions are.

Achievability
Options such as relying solely on voluntary measures or non-regulatory measures by Council in protecting natural character would not meet the requirements under s6 nor will this approach implement the RPS, NZCPS or NPS Freshwater. Non regulatory approach alone could not be enforced nor would it provide for appropriate environmental protection and avoidance, remediation or mitigation of the effects of development in areas with natural character. Achieving the goal as set out in the objective is dependent on the suite of provisions and the tiered approach implemented in the plan. The permitted activities allow for works such as earthworks to occur within 5m of the edge of a water body under specific standards ie intended use, and size of excavation. Activities that breach those standards are subject to the consent process. Activities that do not impinge on the waterways are not subject to these rules. It is considered that the provisions as drafted are not onerous and will overall achieve the objective as drafted. Combined with objectives elsewhere in the plan Council will meet their requirements under s6(a) of preservation of the natural character of the Waitomo District.

Are the objectives the most appropriate way to achieve the Purpose of the Act?
The proposed objective is considered to meet the tests of relevance, usefulness, reasonableness and achievability. The proposed objective gives specific recognition to the principles/overarching goal of recognising the values associated with natural character and protecting those values from inappropriate subdivision, use and development. The objective directly responds to the identified resource management issue and provides plan users and decision makers with certainty as to the expected outcomes. The objective is the most appropriate way to achieve the purpose of the Act because it meets the requirements under RMA s6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development. The objective also gives effect to the WRPS, Manawatu-Whanganui One Plan, the NZCPS, the NPS for Freshwater. It is consistent with the Maniapoto Iwi Environment Management Plan and Waikato Tainui Environmental Plan. The proposed objective is considered reasonable and achievable as it is consistent with best practice

PROVISIONS s32(1)(b)

EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)	ALTERNATIVES s32(1)(b)(i)
<p>Benefits Anticipated</p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> Retention of natural character in close proximity to water bodies Maintenance of the natural landform near water bodies Retention of indigenous vegetation and habitat near waterbodies Improvement in water quality. <p><u>Economic</u></p> <ul style="list-style-type: none"> May lead to economic benefits in terms of nature tourism 	<p>For the purpose of this evaluation, the Council has considered the following potential options:</p> <ol style="list-style-type: none"> The proposed provisions; and The status quo. Non regulatory methods <p>The ODP provisions are not considered to be efficient or effective in achieving the objectives.</p> <p>In order to identify other reasonably practicable options, the Council has undertaken the following:</p>

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<p><u>Social</u></p> <ul style="list-style-type: none"> • Contribution to the district’s identity • Provision for essential community activities to be undertaken where necessary <p><u>Cultural</u></p> <ul style="list-style-type: none"> • Improve the mauri of waterbodies • Improved quality of the freshwater habitat for taonga species <p>Costs Anticipated</p> <p><u>Environmental</u></p> <p>There are no environmental costs.</p> <p><u>Economic</u></p> <ul style="list-style-type: none"> • Limitations on the use of land near waterbodies • Reduced usability of sites • Reduced ability to develop <p><u>Social</u></p> <p>There are no social costs.</p> <p><u>Cultural</u></p> <p>There are no cultural costs</p> <p>Economic growth opportunities</p> <p>The provisions enable ‘appropriate’ activities to continue to occur commensurate with the degree of natural character in an area. This includes farming activities. In addition, the appropriate protection of natural character is important for any local and regional tourism opportunities that could occur based on the unique natural character of the Waitomo area.</p> <p>Employment opportunities</p> <p>Economic growth in the area would see additional employment opportunities open up for the local community. This may be in supporting new ventures or with current activities expanding or undertaking development to implement the provisions.</p>	<ul style="list-style-type: none"> - Reviewed other relevant district plan provisions for provisions in regard to natural character; and - Sought feedback from Council asset managers in terms of infrastructure. - Collated feedback from discussions (workshops) with iwi, the general public stakeholders, residents and ratepayers - Considered the views of elected members
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QUANTIFICATION OF BENEFITS & COSTS s32(2)(b)

Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic.

EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii)	REASONS FOR PROVISIONS s32(1)(b)(iii)
<p>Section 32(1)(b)(ii) requires assessment of the efficiency and effectiveness of the provisions in achieving the objectives:</p> <p><u>Efficiency</u></p> <p>A single objective (NATC-O1) and 3 policies (NATC-P1- NATC-P3) are proposed which reflects the wording of s6(a) RMA. These provisions provide direction for an efficient assessment to be undertaken. The objective and policies focus on natural character in the wider district only and objectives and policies in coastal environment chapter provide for a wider evaluation to be undertaken of an activity on a case by case basis where necessary. The differentiation between the natural character of the coastal environment and the rest of the district is considered appropriate because it reflects the specific direction in the NZCPS relating to the protection of natural character in the coastal environment.</p> <p>This approach is efficient as it protects the natural character from inappropriate subdivision, use and development. The approach is practical and pragmatic (“fit for purpose”) as it applies measurable and enforceable standards relating to activities which pose a threat. The activities requiring resource consent would be limited to those that are considered potentially “inappropriate” and decision-makers could make an informed decision based on detailed policy guidance, and on the effects on the values of the particular area. The rules reflect best practice and provide clarity to plan users about when resource consent would be required. This approach is not considered to be overly restrictive or onerous for landowners. This approach addresses current issues, by providing a balance between protection of natural character and provision for appropriate activities to occur.</p> <p>The alternatives of using current provisions or relying on non-regulatory measures only is not efficient nor will they achieve the outcomes signalled by the objective.</p>	<p>Section 32(1)(b)(iii) requires a summary of the reasons for deciding on the provisions:</p> <p>Overall, it is considered that the proposed provisions will be both an effective and efficient means of achieving the proposed natural character objective (NATC-O1). The full scope of the objective is addressed by the provisions, and the activity status set out in the rules give appropriate scope for decision makers to ensure that natural character is effectively protected. The rules and standards have been drafted so that they address only potentially ‘inappropriate’ activities, taking into account the assessment of threats in the specific area. It is considered that the significant environmental, social and cultural benefits of the proposed provisions outweighs the potential small environmental, social and cultural costs, and the potential financial costs to directly impacted land owners and developers.</p> <p>Non-regulatory methods such as information provision, consultation with landowners, liaison with DOC and others, will continue to be used in conjunction with the proposed provisions to achieve the proposed objectives. Overall, it is considered that the set of proposed provisions is the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the proposed provisions. The risks of acting are also clearly identifiable and limited in their extent.</p> <p>The proposed objective and policies will achieve the purpose of the RMA as it is a clear statement of intent that recognises the values of the natural character of the Waitomo District and protect them from inappropriate activities. It provides certainty as to the outcomes that are appropriate under the proposed plan’s provisions and is aligned with best practice throughout New Zealand.</p>

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Effectiveness

The objective and policies are specific to natural character and an agreed acceptance of the expected outcome. At a broad level this approach is considered the most appropriate because it is considered that the option is consistent with the approaches in other parts of the region and would implement relevant NZCPS, RPSs and RMA direction. In addition, it is considered that any potential financial costs to landowners can be mitigated through the drafting of specific provisions. Overall, it is considered that the proposed provisions will be both an effective and efficient means of achieving the proposed Objective NATC-O1. These provisions implement the requirements under the NZCPS, Section 6 of the RMA, The NPS for Freshwater, the WRPS, the Manawatu-Whanganui One Plan, Waikato River Vision and Strategy, Waipa Accord, WTEMP and MIEMP. The full scope of the objective is addressed by the provisions, and the activity status set out in the rules gives appropriate scope for decision makers to ensure that natural character is effectively protected. Permitted activity rules allow for activities that are considered to be generally appropriate and are unlikely to generate adverse effects or degrade the values associated with natural character.

It is considered that the significant environmental, social and cultural benefits of the proposed provisions outweigh the potential small environmental, social and cultural costs, and the potential financial costs to directly impacted landowners and developers.

Reliance on non-regulatory methods or the use of current provisions would not be best practice and be inadequate in recognising and protecting the district's natural character and lead to inappropriate adverse environmental effects and be ineffectual in meeting higher order documents. Primarily non-regulatory methods such as liaison with other government agencies such as the Department of Conservation and Waikato Regional Council, raising community awareness of the values associated with natural character, and advocacy and negotiation with applicants (network utility operators) regarding to protect these values. To some extent, these methods are effective, but they are reliant on available resources and the willingness of applicants to engage and appreciate the values of natural character. On their own (without regulatory support) these approaches do not have certainty and there are risks that the values associated with natural character can be adversely affected.