



Te Tai o Poutini PLAN

A combined district plan for the West Coast

Prepared for: Hearing Commissioners - Te Tai o Poutini Plan
Prepared by: Lois Easton, Principal Planner
Date: 28 March 2024
Subject: **s42A Author Right of Reply Natural Character of Waterbodies and Activities on the Surface of Water**

Purpose of Report

1. The purpose of this report is to respond to the questions raised by the Hearings Commissioner during Hearing 7: Natural Character of Waterbodies and Activities on the Surface of Water, and for the Officer to propose any further amendments to the notified version of the Proposed District Plan above those recommended in the Officers s42a evidence report.

Hearing Panel's Questions to the s42a Reporting Officer and their Response

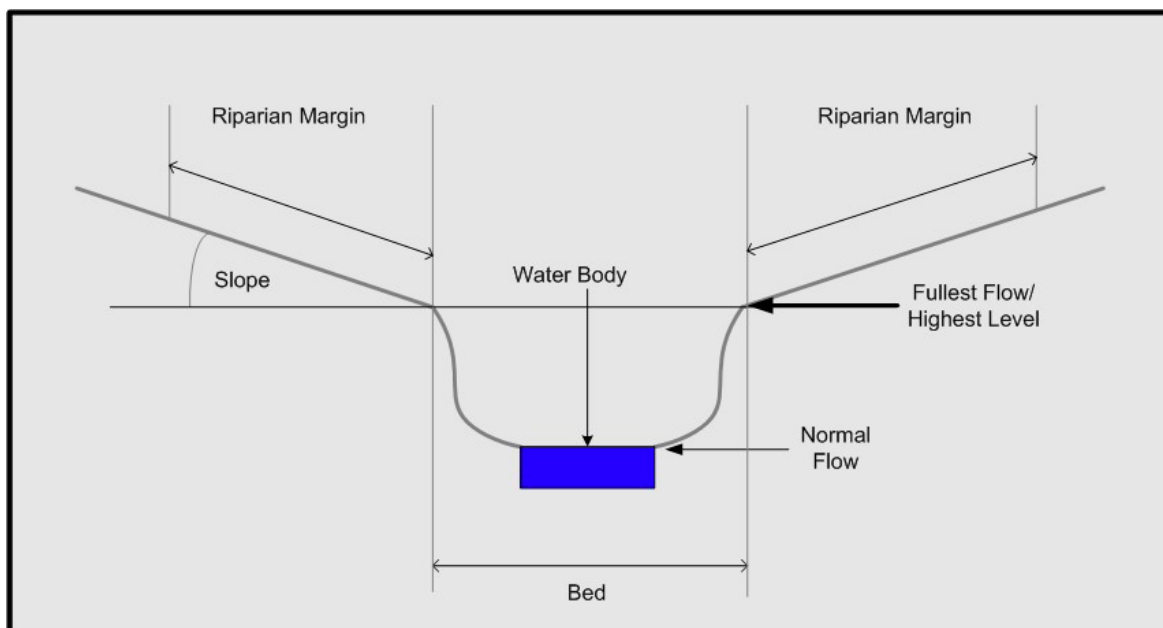
2. The following questions were received from the Hearing Commissioner for the Historic Natural Character of Waterbodies and Activities on the Surface of Water topic which sat on 20-22 February 2024.

[1] Zoning of waterbodies – how would the plan user know what rules apply?

3. The "How the Plan Works" Chapter explains that district wide rules apply on top of zoning, so this directs the plan user in the first instance to these rules. However I consider that approach of having areas identified as "waterbody" on the zoning maps is confusing as the "waterbody" identification is not a zone, and so it is not clear what rules apply.

[2] Riparian Margin Definitions – What is in the Regional Plan in terms of definitions of Riparian Margins and Bed. What about in the National Planning Standards?

4. The West Coast Regional Land and Water Plan (WCRLWP) uses the following diagram and definition for Riparian Margins. It is a lengthy and complex definition and I do not recommend that it is used for the TTPP. A key part of the differences in width relate to slopes, and soil stability issues, rather than management of natural character issues.



Riparian margins refer to the land within a certain distance (see table below) of any:

1. Lake or river; or
2. Major farm drain in the Lake Brunner catchment.

For the purposes of this definition, 'lake' does not include any ephemeral pond, artificial pond, or waterhole.

For the purposes of this definition, 'river' does not include any ephemeral river, stormwater flow path or artificial watercourse (including race and electricity canal).

Noting that a riparian margin may remain grassed and unfenced except where Rule 1(l) or Rule 11 applies.

Summary Table of Riparian Margin widths

Land cover or activity	Dominant slope angle	Rivers		Lakes
		1-3 metres wide	> 3 metres wide	
Existing pasture or pest plants	<12° (or a 1:4.7 ratio)	3 metres	3 metres	20 metres
	>12° (or a 1:4.7 ratio)	10 metres	10 metres	20 metres
Indigenous vegetation	<12° (or a 1:4.7 ratio)	5 metres	10 metres	20 metres

	>12° (or a 1:4.7 ratio)	10 metres	10 metres	20 metres
Humping & hollowing	Any slope	10 metres	10 metres	20 metres

Advisory note:

1. Where there is a mixture of pest plants and indigenous vegetation, more than 65% of the vegetation cover must be pest plants for the narrower setback to apply.
2. Where the bank is not easily defined, the boundary of the 'bed' and 'land' is identified by the terrestrial vegetation immediately adjacent to the lake or river, or major farm drain in the Lake Brunner Catchment.

5. Bed is defined in the National Planning Standards (therefore we can only use this definition) with the same meaning as the RMA, as follows:

bed means,—

(a) in relation to any river—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks:

(ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and

(b) in relation to any lake, except a lake controlled by artificial means,—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin:

(ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and

(c) in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and

(d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea

6. The West Coast Regional Land and Water Plan includes the following information to help with the interpretation of Annual Fullest Flow and Annual Highest Level as follows:

Fullest flow refers to the maximum amount of flow or highest water level that can occur without the river water overtopping the banks and beginning to flow over the flood plain.

Highest level refers to the highest water level that can occur without the lake water exceeding its margin.

7. In terms of calculating annual fullest flow in some instances the Regional Council may hold information on this as this is a matter where it is possible to use hydrological models, however most practically this is often most easily identified on the ground. Because of their experience determining bed width for esplanade reserves, a surveyors could also assist in this assessment.
8. In terms of the TPPP riparian margin I consider that the use of the phrase "annual fullest flow without overtopping its banks" would be appropriate, for consistency with the RMA.
9. If this was used, there may be a need for a definition of bank.

10. While bank is not defined in the RMA or national planning standards, case law has accepted that its ordinary meaning is "means the land on either side of a river which confines the natural flow of the water, whether the normal flow, or flood flows".
11. Determining the bed and banks of braided rivers can be more problematic as has been discussed in recent Court decisions (Dewhirst Land Company Ltd). How applicable this is to the West Coast situation where river levels are generally much higher with significant flows year round is not clear. Environment Canterbury had been relying on a 50 year flow period to define the banks of braided rivers, which is considerably greater than the approach taken on the West Coast. However providing a clear definition of "bank" and "fullest flow" are key recommendations that Environment Canterbury staff have made on this issue.
12. Based on this analysis I therefore recommend the definition definition of Bed (National Planning Standards), Bank and Fullest Flow as outlined below be included in the Plan.

Fullest Flow means the maximum amount of flow or highest water level that can occur without the river water overtopping the banks and beginning to flow over the flood plain

Bank, means the land on either side of a river which confines the natural flow of the water, whether the normal flow, or flood flows

[3] Rivers less than 3m wide – what is the extent and scape of waterbodies less than 3m wide on the West Coast? What extent of these smaller waterways are in indigenous vegetation? How are these treated in the Regional Plan? What about the NES – Commercial Forestry? Is there a gap around vegetation clearance and s6?

13. I have looked at the information available on the rivers of the West Coast. I have focussed on the land outside of the public conservation land (PCL) administered by the Department of Conservation. Almost all of the PCL land is covered with indigenous vegetation and under the WCRLWP would have a riparian margin of 5m (land with a slope of <12 degrees) or 10m (land with a slope >12 degrees).
14. In terms of the land outside of the PCL, I have referred to the River Environment Classification (REC2) maps developed by NIWA. This classification categorises rivers by "River Order" with river order 1 being the smallest rivers classified. In reviewing the aerial photography of river order 1 streams, I can see that many of these are found within the developed/farmed areas of the West Coast.
15. However as a proportion of the total, overwhelmingly the smaller streams are found within the public conservation lands.
16. In terms of vegetation cover, the majority of the smaller order/<3m wide streams outside of public conservation land reviewed are not significantly vegetated on their margins, where they are found in the flatter/more developed lands of the West Coast.
17. I consider that all the streams I reviewed down to river order 1 streams would meet the definition of a permanently flowing waterbody. They are fed by rivers that are a mix of perennial, intermittent and ephemeral. I note that intermittent rivers are also included in the definition of river under the RMA.
18. In terms of how these smaller rivers are treated in the regional plan, as outlined under [2] above, where these are in areas of existing pasture, a 3m riparian margin applies for rivers 1-3m wide on lands <12 degrees, which would describe most of the farmed areas of the West Coast. Within this 3m riparian margin the same rules apply as in wider margins -
19. The relevant WCRLWP Rules in relation to earthworks and vegetation clearance are summarized below:

WCRLWP Rule
Rule 2: Permitted Activity Maximum volume of earthworks in 25m ³ and must not involve the cumulative disturbance of more than 20 linear metres in any 200 metre length of riparian margin
Rule 6: Permitted Activity Earthworks for the purpose of

<ul style="list-style-type: none"> maintaining or repairing a road, track, railway line, landing, drilling pad, stand off pad, firebreak, structures and infrastructure associated with a hydro electric generation scheme, or network utility line, pipe, or cable, and any associated discharge of sediment
<p>Rule 8: Permitted Activity Vegetation clearance in riparian margins:</p> <ul style="list-style-type: none"> Associated with activities Permitted by Rule 2 (read in conjunction with Rule 2 so allows 20 liner metres in any 200m) Otherwise native vegetation is only removed where it is causing bank erosion or toxic to livestock (no restriction on amount) Associated with Permitted Activities in wetlands Rule 7 (this rule is replaced by the NESF provisions)
<p>Where Permitted Activity standards are not met the activity is Discretionary under Section 87B (b) of the RMA</p>

20. In answer to the question of how well the Regional Plan addresses the issue of indigenous vegetation clearance within riparian margins (and in particular in relation to natural character), this is something that is quite strongly restricted – most indigenous vegetation clearance would require a Discretionary Activity consent within the riparian margins. However indigenous vegetation clearance can occur where associated with earthworks permitted by Rule 2 – and there is no restriction on the area of clearance that can occur back from the river – only that it can only affect 20 lineal metres of riverbank in any 200m reach.
21. In terms of whether there is a gap around section 6(e) in the regional council provisions for rivers <3m wide, I consider the Regional Council rules do provide quite a good degree of management of potential adverse effects on natural character.
22. In terms of how riparian margins are dealt with in national instruments I summarise the requirements in the table below.

National Instrument	Riparian Margin requirement	Restrictions that apply
NES Plantation Forestry	Variable by activity	<p>10m from a perennial river for earthworks, 20m for forestry quarrying</p> <p>5m for rivers with a bankfull channel of less than 3m for afforestation, replant and location of harvesting machinery</p> <p>10m for rivers with a bankfull channel of 3m or more for afforestation, replant and location of harvesting machinery</p> <p>No setbacks required for forestry harvest or indigenous vegetation removal</p> <p>[note these are considered “regional council” provisions and appear to have no consideration for biodiversity or natural character]</p>
Stock Exclusion Regulations	Applies to all rivers wider than 1m. 3metre setback.	Stock exclusion.

[4] What are examples of riparian setbacks for lakes?

Regulation	Lake Setback Width
NES Plantation Forestry	10m for lakes larger than 0.25ha
New Plymouth District Plan	20m for earthworks, 10m for building,
Selwyn District Plan	20m for earthworks (All waterbodies), 100m from a lake or wetland for buildings and structures
Waimakiriri District Plan	Schedule waterbodies – Schedule 1 = 50m setback, Schedule 2 = 20,. Schedule 3 = 10m, unscheduled = 5m
Timaru District Plan	have no lakes, 50m setback for wetlands
Far North District Plan	26m – urban areas, 30m rural areas
Christchurch City Plan	20m
West Coast Regional Land and Water Plan	20m

[5] What is the relationship between this topic and Section 7 and Section 8 of the RMA?

23. The primary driver for the natural character of waterbodies and activities on the surface of water chapters is Section 6a of the RMA. However protecting natural character can have significant positive benefits for the following Section 7 matters:

- 7 (a) kaitiakitanga
- 7 (c) the maintenance and enhancement of amenity values
- 7 (d) the intrinsic values of ecosystems
- 7 (f) maintenance and enhancement of the quality of the environment
- 7 (h) the protection of the habitat of trout and salmon
- 7 (i) the effects of climate change.

24. However there is a tension with the following section 7 matters:

- 7 (b) the efficient use and development of natural resources
- 7 (j) the benefits to be derived from the use and development of renewable energy.

25. In terms of Section 8 of the RMA and the principles of the Treaty of Waitangi – TTPP has been prepared in collaboration with Poutini Ngāi Tahu. The provisions recognise the relationship that Poutini Ngāi Tahu have with their waters as a taonga in Objective 2, and in providing for Poutini Ngāi Tahu activities as a Permitted Activity.

26. In relation to activities of water chapter, there are specific waterbodies of very high cultural significant to Poutini Ngāi Tahu and the provisions reflect the values that Poutini Ngāi Tahu have for these areas. This is a key part of implementing Section 8 of the RMA.

[6] Re Section 3.5 (4) of the WCRPS can I provide some commentary on the positive effects in relation to these topics. How do the provisions recognise these?

27. Positive effects are principally provided for through recognising that there are “appropriate” activities – in Objective 1, providing for specific activities such as natural hazard mitigation structures, renewable energy, infrastructure and Poutini Ngāi Tahu activities. The policy also supports the positive effects associated with restoration and enhancement activities.

[7] What is the scope available for changes to the Objectives?

28. There is some scope for changes to Natural Character Objectives as follows: The submission of Forest and Bird seeks substantial revision to increase stringency and reflect Section 6c of the RMA. It states

Revise the objectives, policies, and rules to give effect to s6(a) requirements

29. The submission of West Coast Regional Council seeks that the plan be amended to reduce adverse effects on social and economic wellbeing of the West Coast and states:

30. In terms of the submissions on the individual objectives, there is limited scope for change. The submissions all seek specific wording amendments. There is greatest scope to alter Objective 1 – with the submission of Westpower seeking to split this into two objectives - a “protect” and “provide for” objectives.

31. Other submissions (eg Forest and Bird, Frida Inta, Buller Conservation Group) seek that Objective 1 only be a “protect” objective. The Forest and Bird submission states:

“The objective does not accurately reflect the requirements of the RMA and the WCRPS. It does not give enough direction to the protection of natural character. Replace with objective 1 of the WCRPS: Protect the natural character of wetlands, lakes and rivers and their margins, from inappropriate subdivision, use and development.”

32. The Frida Inta/Buller Conservation Group submissions state:

O1 To preserve the natural character of lakes, rivers and wetlands and their margins ~~while providing for appropriate subdivision, use and development where adverse effects can be avoided or mitigated.~~

'appropriate' needs explanation. Nevertheless there should be no development within the margins of waterbodies. Objective 3 is all that is needed to allow activity within those margins.

33. There is minimal scope to amend Objective 2, as all submissions support it.

34. There is very limited scope to amend Objective 3, as all submissions seek specific amendments – the greatest scope is within the submission of Forest and Bird. It states:

Activities that have a functional need are not necessarily appropriate, these activities still need to be managed so that the natural character is preserved. Either delete completely, or amend as follows: To consider providing provide for activities which have a functional need to locate in the margins of lake, rivers, and wetlands, where they can be undertaken in a way that preserves the in such a way that the impacts on natural character are minimised.

35. In terms of the Activities on the Surface of Water Objectives, there is scope for minor wording changes as sought in submissions, (eg Westpower, Jet Boating New Zealand) and there is scope to add an additional objective recognising the benefits of activities and structures on the surface of water as is sought by William McLaughlin and Westpower Limited.

36. I also refer the panel to the legal advice on scope attached to my right of reply on the Strategic Directions topic.

[8] As the West Coast Land and Water Plan 2014 is not NPSFM 2020 compliant is there natural character direction in the NPSFM?

37. The NPSFM has a Value “Natural Form and Character”. This value must be considered when setting freshwater management frameworks in place in accordance with that instrument at the Freshwater Management Unit level.

38. The Natural Form and Character Value is described as follows:

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

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

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

[9] What information is available identifying specific natural character values? Is there information that could be included in policy? What is the process to identify those values?

39. I have reviewed information available around the generally agreed understanding of the meaning of natural character. In a wider sense natural character is essentially the measure of naturalness of an area that is assessed on a continuum. Greater emphasis is placed on 'perceptions' of naturalness in regard to landscape (i.e., a more visual basis) than on natural character (which retains a more biophysical/ indigenous emphasis).
40. Natural character is generally considered to have three main components:
 - *Natural processes*
 - *Natural elements*
 - *Natural patterns*
41. Natural character is influenced by how people experience the three components. This includes things like smells, sounds, the natural darkness of the sky, the context and setting of the environment. Also, natural character exists to some degree in all coastal, wetland, lake, riverine environments, even in highly modified environments because of the continued influence of natural processes.
42. The West Coast Regional Policy Statement recognises this generally agreed way of assessing natural character by referring to this in Chapter 7A policy 2:

Protect the elements, patterns, processes and qualities that together contribute to the natural character of wetlands, and lakes and rivers and their margins from inappropriate subdivision, use and development.
43. Policy NC – P1 reflects the WCRPS direction and also references the "elements, patterns and processes".
44. As part of the 2013 landscape and natural character work, Stephen Brown landscape architect identified areas of "outstanding natural character" associated with inland freshwater bodies on the West Coast. This work was not further progressed or reviewed as part of the development of TTPP. The basis of this identification was the same as was used to assess coastal natural character with the values identified as follows:
 - a. Biophysical Values
 - Landforms/Geomorphology/Geology
 - Vegetation type, cover and patterns
 - Waterbodies
 - Landuses/activities/structures
 - Habitat value
 - Natural processes

- b. Perceptual values
 - Wildness/wilderness/remoteness
 - Experiential attributes
 - Context/setting
 - Transient/dynamic attributes
 - Night time values
45. In terms of the NPSFM – natural form and character is included as a value to be considered – it is not a compulsory value and is described as set out in [8] above.
 46. In relation to the NPSFM, the National Objectives Framework process sets out that determining the values, including natural form and character is a combination of community dialogue and technical assessment. The West Coast Regional Council has identified 4 Freshwater Management Units (FMU) that cover the West Coast and is undertaking this work at the FMU scale. This work is not complete, and is not expected ahead of the revised deadline for NPSFM implementation of 2027.
 47. I consider that of these two sources contain information that could be included in a policy, the most useful is the Stephen Brown natural character assessment methodology, however it is important to stress that section 6(a) of the RMA states that the “natural character of the margins of waterbodies and the coast” should be preserved – there is no requirement this be “outstanding” natural character.
 48. In terms of the process of identification of natural character values within TTPP, I consider that this is best undertaken as part of the resource consent process – where the natural character of the margins of a specific waterbody are assessed, guided by policy within TTPP.

[10] Does the evidence of Manawa Energy in relation to Policy NC – P1 alter any recommendations?

49. As outlined above, I consider there is sufficient information provided in the Brown Ltd studies to provide some assistance to plan users in assessing the impacts of activities on natural character values.
50. Manawa have sought that the policy refer to identified natural character values. However as per the discussion in 9 above, the RMA does not require that “identified natural character values” be preserved – but that “the natural character” is preserved. I consider that there are values that are helpful in assessing the extent of natural character in any particular instance, and I have discussed these under 9 above. These could be referred to in policy to assist plan users with considering the effects of activities on natural character, but I consider this would be done best in a separate policy to guide consenting process. I remain unconvinced that Policy NC – P1 should specifically refer to “identified natural character values” as sought by Manawa Energy.

[11] Does the evidence of Manawa Energy in relation to the consequential amendments that might need to occur to the policies if the vegetation rules are moved alter any recommendations?

51. Within the Natural Character of Waterbodies Chapter, the only policy that specifically refers to indigenous vegetation is policy NC – P2. Moving the indigenous vegetation clearance provisions across to the ECO chapter, affects 2 rules – one is the Permitted Activity rule and the other the escalation rule for activities not Permitted. – recommended as a Discretionary Activity Discretionary Activities are assessed against all relevant policies in the Plan, however if there is a concern the advice note could be amended to specifically direct Plan Users to consider NC – P2 when assessing such activities.

[12] Re Rule NC – R1 Please confirm what the final recommendations are regarding the amount of Permitted earthworks.

52. Rule NC – R1 – maximum 25m² (same as WCRLWP).

[13] In relation to wetlands what does the NES -Freshwater regulate that addresses District Council functions?

NES Provision
Permitted Activities
Regulation 38 – Vegetation clearance or earthworks within 10m of a wetland for the purpose of restoration, wetland maintenance and biosecurity.
Regulation 40 – Vegetation clearance within 10m of a wetland for Scientific research
Regulation 43 – Vegetation clearance within 10m of a wetland for maintenance of wetland utility structures
Regulation 46 – Vegetation clearance or earthworks within 10m of a wetland for operation of specified infrastructure and other infrastructure
Regulation 51 – Vegetation clearance or earthworks within 10m of a wetland to enable the removal of trees/debris/sediment deposited by a natural hazard or where this will cause an immediate hazard to people or property
Regulation 50 – Vegetation clearance or earthworks within 10m of a wetland for arable or horticultural use established between 1 Jan 2010 and 2 September 2020

53. Outside of these specified activities all vegetation clearance or earthworks requires a resource consent as shown in the table below:

NES Provision
Restricted Discretionary Activities
Regulation 39– Vegetation clearance or earthworks within 10m of a wetland for the purpose of restoration, wetland maintenance and biosecurity not meeting Permitted Activity standards.
Regulation 41 – Vegetation clearance within 10m of a wetland for Scientific research not meeting Permitted Activity standards
Regulation 42 - Vegetation clearance and earthworks within 10m of a wetland for constructing wetland utility structures
Regulation 44 – Vegetation clearance within 10m of a wetland for maintenance of wetland utility structures not meeting Permitted Activity standards
Regulation 45C - Vegetation clearance and earthworks within 10m of a wetland for urban development activities and earthworks within 100m of a wetland for urban development activities
Regulation 47 – Vegetation clearance or earthworks within 10m of a wetland for operation of specified infrastructure and other infrastructure
Discretionary Activities
Regulation 45 - Vegetation clearance and earthworks within 10m of a wetland for constructing specified infrastructure
Regulation 45A - Vegetation clearance and earthworks within 10m of a wetland for quarrying activities and earthworks within 100m of a wetland for quarrying activities
Regulation 45B - Vegetation clearance and earthworks within 10m of a wetland for landfill activities and earthworks within 100m of a wetland for landfill activities
Regulation 45D - Vegetation clearance and earthworks within 10m of a wetland for mineral extraction activities and earthworks within 100m of a wetland for landfill activities

Non complying Activities
Earthworks within 100m of a wetland that will lead to drainage of a wetland
Vegetation clearance and earthworks within 10m of wetland for any other activity not covered by the regulation

54. As can be seen from the tables above, I consider that the rules around vegetation clearance and earthworks within 10m of a wetland are very strict. They are specifically focussed on activities, with particularly very limited Permitted Activities. Most activities would require a resource consent, and outside of those specific activities listed, this would be a non-complying activity. In terms of the district council function, this relates to earthworks and vegetation clearance within the margin of a wetland. I consider the 10m set in the NESFW regulation appropriate for this purpose and that the provisions will have a significant positive effect in terms of preserving the natural character of the margins of wetlands.

55. I do note there are strict limits also placed on the Permitted activities around the amount of disturbance that occurs. I consider this regulation is sufficient to address natural character issues under TTPP.

[14] Do you recommend any changes to the definition of wetland as a consequence of this analysis?

56. No. The NPSFM definition of natural inland wetland specifically refers to wetlands in the Coastal Marine Area being excluded, and I consider therefore the definition in TTPP should refer to the Coastal Marine Area also.

[15] In relation to Artificial Lakes – should this definition exclude those which have ecological issues? If so how would these be defined?

57. I consider that the issue of “naturalised lakes” is at least partly dealt with by the definition of wetland in the NPSFM. This specifically includes wetlands that has developed in or around a deliberately constructed waterbody, since the construction of the waterbody. I consider that a “naturalised” artificial lakes is likely to have developed this wetland fringe – which would then meet the definition of natural inland wetland.

58. If the panel is concerned that “naturalised lakes” should be excluded from the definition of artificial lake that this could be amended as follows:

means a body of freshwater created by human intervention in a location where a lake or pond did not naturally exist and includes man made reservoirs. Where the artificial lake has established a wetland margin that meets the NPSFM definition of natural inland wetland, this shall not be considered an artificial lake.

59. However I do note that there is no submission seeking an amendment to the definition of artificial lake or any changes to the Rule, so I consider this matter is likely to be out of the scope of submissions.

[16] How do other Councils manage earthworks and volume controls in riparian areas? Are new and existing activities deal with differently? Are there any changes to the recommendations on this.

60. Based on my review of how other Councils manage this issue, as set out in the table below, I have no recommended changes to my advice in the s42A report.

District Council	Permitted Earthworks controls in Riparian Areas	Permitted Vegetation Clearance controls in Riparian Areas
New Plymouth	No Permitted level of earthworks	No specific restrictions
Far North	Maximum 400m ² in a 10 year period (where for repairs and	Maximum 400m ² in a 10 year period (where for repairs and

	maintenance of existing structures only)	maintenance of existing structures only)
Porirua	Maximum 25m ² in any 12 month period	No specific restrictions
Timaru	Very restricted Permitted Activities – no volume limit	Very restricted Permitted Activities – no area limit
Selwyn	No Permitted earthworks in riparian margins	No specific provisions – managed as part of ECO chapter
Waimakariri	No Permitted earthworks in riparian margins	No specific provisions – managed as part of ECO chapter

[17] What is your view on the use of “Allow” vs “Provide for” in relation to objectives

61. In my view “Allow” should be used in objectives and policies where an activity is Permitted and “Provide for” in circumstances where it is expected that the activities could be Permitted – or where a resource consent is required. In general therefore I consider the appropriate term for use in Objectives will generally be “Provide for”.

[18] How does the Plan recognise cumulative effects and the effectiveness of measures to avoid/remedy and mitigate these? If there is a need for a threshold where is the appropriate location?

62. In terms of cumulative effects in relation to activities within the riparian margins of waterbodies, the Plan largely manages these through having very restricted Permitted Activities.

63. If there is a need for a threshold to be included in the Plan (eg “no more than minor adverse effects) then I consider the appropriate location for this is at a policy level, not at an objective level.

64. In terms of the balance of policies, I consider that with only 4 policies, 3 of which refer to providing for development or modification, this could be considered unbalanced to ensure that the “preserve” objective is achieved.

[19] Should the policies distinguish between existing and new activities?

65. I consider that Policy 3 as worded provides for both new and existing buildings, however if this is unclear then this could be reworded as follows (updated amendments highlighted in yellow):

NC – P3

Provide for new buildings and structures and the upgrading of existing buildings and structures within riparian margins of lakes, rivers and wetlands where these:

- a. Have a functional need or operational need for their location; and
- b. They are of a form and scale that will not adversely effect affect ¹the natural character of the riparian area.

[21] Is an Advice Note to NC – P4 around financial contributions appropriate?

66. I have considered the further legal information tabled by the Director General of Conservation. In light of this I consider that this Advice Note is not appropriate.

¹ Grey District Council (S608.610)

[22] Does the evidence of Manawa Energy alter your view on the issue of Health and Safety?

67. Yes I accept that the Purpose of the RMA includes providing for people's health and safety. I recommend that Policy 5 (renamed PA – P1) is amended to reflect this as follows (further amendment highlighted in yellow).

NC—P5 PA – P1

Reduction in public access to waterbodies can be considered when natural hazard mitigation works are required to protect communities from a significant natural hazard threat **or for health and safety reasons**. When assessing proposals for natural hazard structures, effects on public access should be considered and ways to minimise them found, including:

- a. Provision of alternate certain and enduring access; and
- b. Provision of public amenity or opportunity for environmental benefit along the structure, provided that the physical integrity of the structure **and/or health and safety** is maintained.

[23] Please provide the correct submission number for paragraph 90

68. This s42A report is correct. The submission point had multiple parts to it, so I discuss each part separately.

[24] Is there a rule on legal unformed roads in the Energy Infrastructure and Transport Chapter? What is your view on underground or above ground infrastructure being located in these?

69. Rule TRN – R3 relates to the formation of legal unformed roads. These can only be formed in certain circumstances as a Permitted Activity, otherwise this becomes a Restricted Discretionary Activity.
70. I note however that I have already recommended that all underground customer connections be a Permitted Activity (regardless of ownership status of the land), so the main issue for the panel to consider is whether land tenure should make a difference when considering whether above ground customer connections are proposed.
71. I do not have any further recommendations on this.

[25] Does the evidence of Westpower in relation to existing river crossings alter your recommendations?

72. The evidence presented at the hearing provided useful information about the nature of the vegetation clearance – that effectively the clearance needs to be greater at the top of the structure around the wires. I support the principle that the rules should provide for this, but do not have sufficient information to be able to draft amended provisions.

[26] Do we need to define pump sheds and have a maximum size?

73. I do not consider that a definition of pump sheds is required – I consider the ordinary meaning of the words is sufficient. If a maximum size is required then I would suggest no more than 5m².

[27] Please respond to the evidence of Westpower section 8.24 – does this alter any recommendations?

74. Westpower has sought a Restricted Discretionary Activity for Regionally Significant Infrastructure. I do not support this for the reasons given in my report. I note that while the chapter title of the WCRPS is Regionally Significant Infrastructure, the relevant policy is Policy 6 which refers only to operation, maintenance and upgrading of existing renewable electricity generation, electricity distribution and transmission networks. Policy 6 in full is provided below:

6. Provide for the operation, maintenance and upgrading of existing renewable electricity generation activities and electricity distribution and transmission networks in areas of natural character of wetlands, and lakes and rivers and their margins (including outstanding natural

character), outstanding natural features or natural landscapes, or areas of significant indigenous vegetation

and significant habitats of indigenous fauna including within the coastal environment.

[29] Does the evidence presented by the Lake Mahinapua Aquatic Club alter any recommendations?

75. Yes, they have provided evidence that there are 8 existing permanent marker buoys and I consider that the Permitted Activity Rule ASW – R4 should refer to these as there are no existing use rights for Activities on the Surface of Water. They also have advised that their boats may need to exceed a speed of 5 knots in an emergency response, and I recommend making it clear in the rule that this is Permitted. I propose an amended rule as follows:

(yellow highlighted where this varies from the s42A report)

ASW – R2 Use of Motorised Watercraft for Non-commercial Use on the Surface of Rivers, Lagoons and Lakes

Activity Status Permitted

Where:

1. This does not occur on the surface of Lake Māhinapua or Māhinapua Creek/Tuwharewhare, Waitangiroto River, Makaawhio River, Arahura River, Kaimata/New River, Makatata Stream or Saltwater Lagoon (at Paroa) except:
 - a. As provided for in an Iwi/Papatipu Rūnanga Management Plan for these awa, roto and hāpua; or
 - b. Where the activity is for:
 - i. Mātauranga Māori monitoring;
 - ii. Scientific investigations or monitoring;
 - iii. Law enforcement;
 - iv. Search and rescue work;
 - v. Conservation work undertaken by the Department of Conservation in respect of their duties under the Conservation Act 1987, Wildlife Act 1953 or Fisheries Act 1983;
 - vi. The control and management of sports fish (as defined in the Conservation Act 1987) and game (as defined in the first Schedule of the Wildlife Act 1953) by Fish and Game New Zealand; or
 - vii. Biosecurity work carried out by West Coast Regional Council or Fish and Game New Zealand.
 - viii. Access to landlocked parcels where primary and physical access is only achieved through crossing the waterbody
 - ix. Use of Lake Māhinapua for the yachting regattas and club sailing associated with the Lake Māhinapua Aquatic Club during the sailing season of October to April where the craft are propelled by a motor but not exceeding a speed of 5 knots except in an emergency response.

ASW – R4 Installation of Structures on the Surface of Natural Waterbodies

Activity Status Permitted

Where:

- a. These are temporary whitebait stands installed in accordance with West Coast Whitebait Fishing Regulations; or

- b. These are temporary mai mai installed for the purposes of lawful gamebird hunting provided these are removed within 2 weeks of the end of the game bird season;
- c. These are temporary swimming platforms installed for a single swimming season; or
- d. These are structures installed by Poutini Ngāi Tahu that are identified in an Iwi/Papatipu Rūnanga Management Plan for Arahura River, Makaawhio River, Waitangioto River, Māhinapua Creek/Tuwharewhare, Makatata Stream or Lake Māhinapua ~~and have written approval of the relevant Poutini Ngāi Tahu rūnanga—Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio; or~~
- e. This is the laying of temporary marker buoys used by the Lake Māhinapua Aquatic Club Inc. on Lake Māhinapua during sailing season October to April; or
- f. This is the operation, maintenance and repair of existing structures where this is of the same or similar scale and intensity as of 14 July 2022.

[31] Is commercial whitebaiting caught by ASW – R6? Is this an issue that needs to be addressed?

- g. The definition of commercial activity is "*means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices).*"
- h. I do not consider that whitebaiting, where some of the catch is sold commercially would meet that definition. However, for the avoidance of doubt, I suggest an Advice Note to Rule – R6 as follows:

"For the avoidance of doubt, this rule does not apply to whitebaiting activities on the surface of water."

[32] Please provide an updated version of Appendix 1 highlighting where any of your recommendations differ from the main body report.

- i. The updated Appendix 1 is attached at the end of this report.

Appendix: - Updated Appendix 1: Recommended Amendments to the Natural Character of Waterbodies and Activities on the Surface of Water Chapters.

Where the recommended changes are different to the main body s42A Report, these are highlighted in yellow.

Definitions - Ngā Tautuhinga

<p>Riparian Margin</p>	<p>means all <u>land</u> within:</p> <ul style="list-style-type: none"> a. 10m of any wetland <u>that is located in the coastal marine area</u>² b. 20m of any lake; and c. 10m of any stream or³ river with an average bed width greater than 3m. <p><u>As measured from the point of annual fullest flow for a river or annual fullest water level for a lake or Mean High Water Springs for a coastal wetland</u>⁴.</p> <p><u>Advice Note: Activities within 10m of a natural inland wetland are regulated under the NESF and administered by the West Coast Regional Council.</u></p>
<p>Watercraft⁵</p>	<p>means a boat or other vessel that travels on water. <u>This excludes fixed structures on water and use for residential activities.</u></p> <p><u>In relation to the Activities on the Surface of Water Provisions, motorised watercraft means a watercraft that is operated or propelled by a motor.</u></p>

Natural Character and the Margins of Waterbodies

Overview

Waterbodies and their margins are an important part of the West Coast/Te Tai o Poutini Waterbodies are connected (*Ki uta ki ta* from the mountains to the sea) and have important values, including for biodiversity, cultural, recreational⁶ or historical reasons.

Under section 31 of the RMA district councils are responsible for the management of activities on land, including the margins of waterbodies. Natural Character and the margins of waterbodies require protection as a matter of national importance under Section 6(a) of the RMA.⁷ Te Tai o Poutini Plan also manages activities on the surface of waterbodies.⁸

The West Coast Regional Council has responsibility for the management of wetlands, lakes and rivers, including land uses in the beds of rivers. This section of Te Tai o Poutini Plan focuses on the natural

² Forest and Bird (S560.039, S560.252, S560.509 and S560.076)

³ Department of Conservation (S602.015)

⁴ Buller Conservation Group (S552.028) and Frida Inta (S553.028)

⁵ Department of Conservation (S602.130, S602.022) and Ngāi Tahu (S620.191, S620.192)

⁶ Herenga ā Nuku Aotearoa Outdoor Access Commission (S274.004)

⁷ Buller Conservation Group (S552.094)

⁸ Department of Conservation (S602.100)

character of the margins of wetlands, lakes, and rivers thereby avoiding duplication with Regional Council functions.

The three district councils work with the West Coast Regional Council and Poutini Ngāi Tahu to ensure waterbodies are managed in an integrated way.

Poutini Ngāi Tahu have a special relationship with the mauri of waterbodies, and ancestral, cultural, spiritual or historical associations with waterbodies. Many waterbodies in the West Coast/Te Tai o Poutini are identified as statutory acknowledgement areas and there are also nohoanga entitlements in place in some locations. These waterbodies contain associated kāinga, pā, important sites for the gathering of kai, tauranga ika and specialised zones for various activities of high cultural value such as cleansing, iriiringa, food preparation and bathing, which continue to be vital to the wellbeing, livelihood and lifestyle of Poutini Ngāi Tahu.

Rivers, streams, lakes and wetlands have important ecological, natural character, recreational⁹ and hydrological values. They provide important habitat for native plants, fish, birds, lizards, frogs, insects and aquatic and terrestrial macroinvertebrate aquatic life and opportunities for access to and along waterways.¹⁰

Some waterbodies (both natural and artificial) also form an important resource for the generation of hydroelectricity which contributes to the wellbeing of people and communities.¹¹

The National Policy Statement for Freshwater Management 2020 (NPSFM) guides decision-making regarding the freshwater resources of New Zealand/Aotearoa. In particular the councils must have regard to its objectives and policies in consent decision-making.

The National Environmental Standard for Freshwater Management 2020 (NESFM) has specific rules which relate to freshwater, in particular as relate in relation to activities in the margins of freshwater wetlands. These rules relate to the regional functions of the West Coast Regional Council and are administered by that organisation. The provisions in Tai o Poutini Plan have been developed considering the NESF and what additional provisions are required to fulfil the statutory functions of the district councils in relation to natural character of waterbodies. The Tai o Poutini Plan provisions in relation to riparian margins of wetlands only relate to wetlands in the coastal marine area to avoid duplication with the NESF.¹²

Plantation Forestry

Plantation forestry is principally regulated by the Resource Management (National Environmental Standard for Commercial Forestry) Regulations 2017 (NES-CF). However the NES-CF allows that district plans can be more stringent where this gives effect to an objective in the National Policy Statement for Freshwater Management. Where provisions within this chapter over-rule the requirements of the NES - CF an advice note to that effect is included within the Rule.

Other relevant Te Tai o Poutini Plan provisions

It is important to note that in addition to the zone chapters, a number of District Wide and Overlay chapters also contain provisions that may be relevant for waterbodies, including:

- **Public Access** – The Public Access Chapter contains provisions relating to the provision and maintenance of public access to waterbodies.
- **Subdivision**–The Subdivision Chapter contains provisions which manage subdivision and specific standards in relation to the provision of esplanade reserves and strips, in particular SUB – S9.
- **Activities on the Surface of Water** – The Activities on the Surface of Water Chapter contains provisions that manage activities that occur on the surface of water.

⁹ Herenga ā Nuku Aotearoa Outdoor Access Commission (S274.004)

¹⁰ Herenga ā Nuku Aotearoa Outdoor Access Commission (S274.004)

¹¹ Manawa Energy (S438.103)

¹² Forest and Bird (560.224)

- **Coastal Environment**– The Coastal Environment Chapter contains provisions that manage the natural character of the coastal environment
- **Earthworks**- The Earthworks Chapter includes provisions around earthworks management. These relate to requirements for earthworks within zones and include general standards for earthworks. These rules apply in addition to rules on earthworks within the Natural Character of Waterbodies Chapter.¹³
- **Ecosystems and Indigenous Biodiversity** -The Ecosystems and Indigenous Biodiversity Chapter contains provisions around vegetation clearance, including in the margins of waterbodies.¹⁴
- **Energy, Infrastructure and Transport** -The Energy, Infrastructure and Transport Chapter contains policies that are also relevant and should be assessed in relation to energy, infrastructure or transport Activities that trigger resource consent under the Natural Character of Waterbodies Rules.¹⁵

....

Also view the Strategic Objectives and Policies¹⁶.

...

Natural Character and the Margins of Waterbodies Objectives

NC – O1

To preserve the natural character of lakes, rivers and wetlands and their margins while ~~providing for~~ allowing appropriate subdivision, use and development where adverse effects can be ~~avoided or mitigated~~ appropriately managed in accordance with the effects management hierarchy.¹⁷

NC – O3

To provide for activities which have a functional or operational¹⁸ need to locate in the margins of lakes, rivers and wetlands ~~in such a way that the impacts while ensuring adverse effects~~ on natural character are minimised.¹⁹

Natural Character and the Margins of Waterbodies Policies

NC – P1

Minimise the adverse effects of activities on the natural character of the riparian margins of lakes, rivers and wetlands by ensuring that subdivision, development²⁰ and land use is of a form and scale that²¹ maintains the elements, patterns and processes that contribute to their natural character, and maintains or enhances public access²².

¹³ Forest and Bird (S560.511)

¹⁴ Forest and Bird (S560.511)

¹⁵ Transpower New Zealand Limited (S299.085)

¹⁶ Westpower Limited (S547.312)

¹⁷ Department of Conservation (S602.101)

¹⁸ WMS Group (S599.069), TiGa Minerals and Metals Limited (S493.064), Birchfield Coal Mines (S601.050), BRM Developments Limited (S603.034), Birchfields Ross Mining Limited (S604.044), Phoenix Minerals Limited (S606.035), Whyte Gold Limited (S607.033), KiwiRail Holdings Limited (S442.060), Bathurst Resources (S491.024), Waka Kotahi (S450.102), Manawa Energy (S438.105) and Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663.050)

¹⁹ Department of Conservation (S602.103), Waka Kotahi (S450.102)

²⁰ Forest and Bird (S560.248)

²¹ Department of Conservation (S602.104)

²² Herenga ā Nuku Aotearoa Outdoor Access Commission (S274.009)

NC – P2

Provide for indigenous vegetation removal and earthworks within riparian margins of lakes, rivers and wetlands where

1. This is located outside of a significant natural area, and²³
2. ~~Significant~~ adverse effects on natural character are ~~minimised~~ avoided, remedied or mitigated²⁴ as far as practicable; and:
 - a. It is for the purpose of natural hazard mitigation; or
 - b. It is for the maintenance, repair, upgrade and extension of network utilities, energy activities²⁵ and infrastructure including the national grid; or
 - c. It is for the establishment, operation, maintenance or upgrading of renewable energy generation structures or infrastructure where this has a functional or operational need to be located in a riparian margin; or
 - d. It is for Poutini Ngāi Tahu ~~cultural purposes~~ Activities or Māori Purpose Activities in accordance with an Iwi/Papatipu Rūnanga Management Plan²⁶; or
 - e. It is for the repair and maintenance of legally established structures; or
 - f. The activity has a functional or operational need to be located adjoining a waterbody

NC – P3

Provide for new buildings and structures and the upgrading of existing buildings and structures within riparian margins of lakes, rivers and wetlands where these:

- a. Have a functional need or operational need²⁷ for their location; and
- b. They are of a form and scale that will not adversely ~~effect~~ affect ²⁸the natural character of the riparian area.

NC – P4

Encourage the restoration and enhancement of the natural character of the riparian margins of lakes, rivers and wetlands including pest plant and pest animal control²⁹.

Advice Notes:

1. The Objective and Policy in the Public Access Chapter should also be considered when assessing resource consents in relation to activities in the margins of waterbodies³⁰.
2. ~~This policy should be considered through the resource consenting process alongside Policy FC – P6 and also Rule FC – R12 which provide for financial contributions for offsetting and compensation~~³¹.

²³ Inger Perkins (S462.017)

²⁴ Westpower Limited (S547.316), Grey District Council (S608.609), Manawa Energy (S438.107)

²⁵ Westpower Limited (S547.317)

²⁶ Ngāi Tahu (S620.174)

²⁷ WMS Group (S599.071), TiGa Minerals and Metals Limited (S493.066), Birchfield Coal Mines Ltd (S601.052), BRM Developments Limited (S603.036), Birchfield Ross Mining Limited (S604.46), Phoenix Minerals Limited (S606.037), Whyte Gold Limited (S607.035), Bathurst Resources (S491.026), Westpower Limited (S547.319), Manawa Energy (S438.108) and Grey District Council (S608.611).

²⁸ Grey District Council (S608.610)

²⁹ New Zealand Agricultural Aviation Association (S166.017)

³⁰ Buller Conservation Group (S552.098) and Frida Inta (S553.098)

³¹ Forest and Bird (S560.259)

Public Access - Te Āheinga Tūmatanui

Public Access Policies

NC—P5 PA – P1³²

Reduction in public access to waterbodies can be considered when natural hazard mitigation works are required to protect communities from a significant natural hazard threat **or for health and safety reasons**. When assessing proposals for natural hazard structures, effects on public access should be considered and ways to minimise them found, including:

- c. Provision of alternate certain and enduring access; and
- d. Provision of public amenity or opportunity for environmental benefit along the structure, provided that the physical integrity of the structure **and/or health and safety** is maintained.

Natural Character and the Margins of Waterbodies Rules

Permitted Activities

NC -R1 ~~Indigenous Vegetation Clearance and~~³³ Earthworks within the Riparian Margin of a River, Lake or Wetland

Activity Status Permitted

Where this is outside of any Significant Natural Area identified in Schedule Four and for:

- a. Fence lines; or
- b. Maintenance, operation, minor upgrade and repair of network utilities, ~~critical infrastructure or renewable energy generation~~³⁴ activities; ~~or~~
- c. New network utilities and regionally significant³⁵ infrastructure where these are underground and located within a formed legal road or attached to an existing bridge,³⁶ or
- d. Connections to wastewater, stormwater and reticulated network utility systems and underground energy and infrastructure connections³⁷; or
- e. Installation of an environmental monitoring and extreme weather event monitoring facility; or
- f. Maintenance and repair of lawfully established structures; or
- g. The construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or
- h. The establishment of a river crossing point up to 3m wide; or
- i. Poutini Ngāi Tahu Activities; ~~or~~

³² Buller Conservation Group (S552.098) and Frida Inta (S553.098)

³³ Forest and Bird (S560.508)

³⁴ Westpower Limited (S547.323)

³⁵ Manawa Energy (S438.110)

³⁶ Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663.051)

³⁷ Westpower Limited (S547.323)

- j. Activities on Māori Purpose Zoned land or a site of significance to Māori in Schedule Three³⁸ and is being undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
 - k. Maintenance and repair of Natural Hazard Mitigation structures;³⁹ or
 - l. Activities New natural hazard mitigation structures and upgrading of existing natural hazard mitigation structures undertaken by a statutory agency or their nominated contractor; or
 - m. Clearance of pest plants and pest animals for biosecurity purposes⁴⁰; or
 - n. Arable, horticultural or pastoral farming use where this is lawfully established activity that is no greater in intensity, scale, or character over time than at 14 July 2022.⁴¹
2. ~~The amount of indigenous vegetation clearance is not greater than 20m² per 200m length of Riparian Margin⁴²;~~
 3. The amount of earthworks is not greater than **25m³** per 200m length of Riparian Margin; and
 4. All earthworks stockpiles are located outside of the Riparian Margin of the waterbody; and
 5. Unless carried out by a statutory agency or their nominated contractor responsible for natural hazard mitigation, the ~~clearance and~~⁴³ earthworks are not located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency⁴⁴.

Advice Note:

1. Rules in other Overlay Chapters particularly Historic Heritage, Sites and Areas of Significance to Māori, Natural Hazards and Natural Features and Landscapes may also apply in these locations.
2. Also refer to rules in the Energy, Infrastructure and Transport Chapters for activities in relation to those matters.
3. Activities within the margins of waterbodies and wetlands are also the subject of regulation under the NES Freshwater, NPS Freshwater and the West Coast Regional Land and Water Plan.
4. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES - PF.

NC – R2 Buildings and Structures within the Riparian Margin of a River, Lake or Wetland

Activity Status Permitted

1. Where the buildings and structures have a functional or operational need to locate in the riparian margin and⁴⁵ are:
 - a. Network utilities, including energy activities and infrastructure⁴⁶;
 - b. Temporary whitebait stands and temporary mai mai for game bird hunting provided these are removed within 2 weeks of the end of the game bird season;

³⁸ Ngāi Tahu (S620.176)

³⁹ William McLaughlin (S567.211), Chris & Jan Coll (S558.133), Chris J Coll Surveying Limited (S566.133), Buller District Council (S538.223) and Laura Coll McLaughlin (S574.133)

⁴⁰ New Zealand Agricultural Aviation Association (S166.018)

⁴¹ Horticulture New Zealand (S486.037) and Federated Farmers (S524.079)

⁴² Forest and Bird (S560.508)

⁴³ Forest and Bird (S560.508)

⁴⁴ William McLaughlin (S567.211), Chris & Jan Coll (S558.133), Chris J Coll Surveying Limited (S566.133) and Laura Coll McLaughlin (S574.133)

⁴⁵ Buller Conservation Group (S552.100), Frida Inta (S553.100), Westpower Limited (S547.329) and Manawa Energy (S438.111)

⁴⁶ Westpower Limited (S547.328), KiwiRail Holdings Limited (S442.063)

- c. Environmental monitoring facilities;
- d. Parks facilities and parks furniture within an Open Space and Recreation Zone;
- e. Natural hazard mitigation structures constructed by a statutory agency or their nominated contractor; or
- f. Renewable energy generation facilities ~~where these have a functional or operational need to locate within the riparian margin;~~ or
- g. Stormwater discharge structures and water supply intake structures constructed in accordance with NZS 4404 Code of Practice for Land Development and Subdivision Infrastructure; or
- h. Temporary bridges constructed as part of a temporary military training activity; or⁴⁷
- i. Pump sheds⁴⁸

Advice Note: Rules in other Overlay Chapters particularly Historic Heritage, Sites and Areas of Significance to Māori, Natural Hazards and Natural Features and Landscapes may also apply in these locations.

~~NC – R3 – New Natural Hazard Mitigation Structures~~

~~Activity Status Permitted~~

Where

- ~~1. These are constructed by a Statutory Agency or their authorised contractor.~~⁴⁹

~~NC – R34⁵⁰ Indigenous Vegetation Clearance and⁵¹ Earthworks within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards~~

~~Activity Status Discretionary~~

~~Advice Note:~~

- ~~1. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES - PF~~
- ~~2. The NES – Freshwater has extensive regulation around works that can be undertaken in or near any natural wetland. These rules are administered by the West Coast Regional Council and are not repeated in this Plan.~~

~~NC – R45 Buildings and Structures within Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Rules~~

~~Activity Status Discretionary~~

~~NC – R53⁵² Natural Hazard Mitigation Structures within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards~~

~~Activity Status Restricted⁵³ Discretionary~~

⁴⁷ New Zealand Defence Force (S519.03)

⁴⁸ Horticulture New Zealand (S486.038) and Federated Farmers of New Zealand (S524.080)

⁴⁹ Department of Conservation (S602.109) and Forest and Bird (S560.255)

⁵⁰ Grey District Council (S608.617)

⁵¹ Forest and Bird (S560.508)

⁵² Grey District Council (S608.618)

⁵³ William McLaughlin (S567.220, S567.212, S567.215, S567.217), Chris & Jan Coll (S558.134, S558.137 and S558.139), Laura Coll McLaughlin (S574.134, S574.137 and S574.139), Chris J Coll Surveying Limited (S566.134, S566.137 and S566.139) and Grey District Council (S608.067)

Matters of Discretion

1. Design and location of the structure
2. Visual impact of the structure
3. Methods to avoid, remedy or mitigate adverse effects on natural character or public access.

Ecosystems and Biodiversity

Permitted Activities

Rule ECO – Rxxx Indigenous Vegetation Clearance within the Riparian Margin of a River, Lake or Wetland⁵⁴

Activity Status Permitted

1. Where this is outside of any Significant Natural Area identified in Schedule Four, and for:
 - a. Fence lines; or
 - b. Maintenance, operation, minor upgrade and repair of network utilities ~~critical~~ infrastructure or renewable energy generation⁵⁵; or
 - c. New network utilities and critical infrastructure where these are underground and located within a legal road or attached to an existing bridge; or
 - d. Connections to wastewater, stormwater and reticulated network utility systems and underground energy and infrastructure connections⁵⁶; or
 - e. Installation of an environmental monitoring and extreme weather event monitoring facility; or
 - f. Maintenance and repair of lawfully established structures; or
 - g. The construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or
 - h. The establishment of a river crossing point up to 3m wide; or
 - i. Poutini Ngāi Tahu Activities; or
 - j. Activities on Māori Purpose Zoned land or a site of significance to Māori in schedule three⁵⁷ and is being and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
 - k. Maintenance and repair of ~~N~~natural ~~H~~azard ~~M~~itigation structures;⁵⁸ or
 - l. ~~Activities~~ New natural hazard mitigation structures undertaken by a statutory agency or their nominated contractor; or
 - m. Clearance of pest plants and pest animals for biosecurity purposes⁵⁹; or
 - n. Arable, horticultural or pastoral farming use where this activity is no greater in intensity, scale, or character over time than at 14 July 2022.⁶⁰; and

⁵⁴ Forest and Bird (S560.508)

⁵⁵ Westpower Limited (S547.323)

⁵⁶ Westpower Limited (S547.323)

⁵⁷ Ngāi Tahu (S620.176)

⁵⁸ William McLaughlin (S567.211), Chris & Jan Coll (S558.133), Chris J Coll Surveying Limited (S566.133), Buller District Council (S538.223) and Laura Coll McLaughlin (S574.133)

⁵⁹ New Zealand Agricultural Aviation Association (S166.018)

⁶⁰ Horticulture New Zealand (S486.037) and Federated Farmers (S524.079)

2. The amount of indigenous vegetation clearance is not greater than 20m² per 200m length of Riparian Margin;
3. Unless carried out by a statutory agency or their nominated contractor responsible for natural hazard mitigation, the clearance is not located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency⁶¹..

Advice Note:

1. Rules in other Overlay Chapters particularly Historic Heritage, Sites and Areas of Significance to Māori, Natural Hazards and Natural Features and Landscapes may also apply in these locations.
2. Activities within the margins of waterbodies and wetlands are also the subject of regulation under the NES Freshwater, NPS Freshwater and the West Coast Regional Land and Water Plan.
3. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES - PF.

Rule ECO – Rxxx Indigenous Vegetation Clearance within the Riparian Margin of a River, Lake or Wetland not meeting Permitted Activity Standards⁶²

Activity Status Discretionary

Advice Note:

1. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES- PF
2. The NES – Freshwater has extensive regulation around works that can be undertaken in or near any natural wetland. These rules are administered by the West Coast Regional Council and are not repeated in this Plan.
3. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the policies of both the Ecosystems and Biodiversity Chapter and the Natural Character and the Margins of Waterbodies Chapter will be required. Where relevant the policies in the Energy, Infrastructure and Transport Chapters should also be assessed.

Activities on the surface of water - Ngā mahi ki te kārewa o te wai

Overview

On the West Coast/Te Tai o Poutini a range of activities occur on the surface of rivers, streams, lagoons and lakes. These include activities that have a functional need to locate on watersurfaces such as jetties and piers, recreation activities like fishing and boating and cultural activities undertaken by Poutini Ngāi Tahu. Some waterbodies (both natural and artificial) also form an important resource for the generation of hydroelectricity which contributes to the wellbeing of people and communities⁶³.

The provisions in this chapter manage the effects of activities on the surface of water. Many of the activities that occur on the surface of water have few effects (e.g. occasional recreational boating or sailing). Other, more permanent activities such as structures have potential to generate adverse effects which could compromise important water values (such as the natural character, ecological, cultural, amenity and recreational values of waterbodies).

Other relevant Te Tai o Poutini Plan provisions

- **Natural Character and the Margins of Waterbodies** - Many activities on the surface of water may also involve activities in the riparian margin of the adjacent riverbank or lakeside.

⁶¹ William McLaughlin (S567.211), Chris & Jan Coll (S558.133), Chris J Coll Surveying Limited (S566.133) and Laura Coll McLaughlin (S574.133)

⁶² Forest and Bird (S560.508)

⁶³ Westpower Limited (S547.395, S547.394)

Provisions for managing activities next to waterbodies are found in the Natural Character and the Margins of Waterbodies Chapter.

- **Sites and Areas of Significance to Māori** - Many rivers and lakes have a high degree of significance to Poutini Ngai Tahu and are identified in Schedule Three Sites and Areas of Significance of Māori. Where rivers or lakes are included within Schedule Three the Sites of Significance to Māori provisions also apply.
- **Energy, Infrastructure and Transport** - The Energy, Infrastructure and Transport Chapter contains policies that are also relevant and should be assessed in relation to Energy, Infrastructure or Transport Activities that trigger resource consent under the Activities on the Surface of Water Rules.⁶⁴

Other relevant regulations

The responsibility for managing the effect of activities on the bed of waterbodies lies with the West Coast Regional Council and are managed through the West Coast Regional Land and Water Plan.

Activities on the Surface of Water Objective

ASW – O1 The ecological, recreational, natural character, landscape, natural feature⁶⁵, amenity and Poutini Ngāi Tahu values of the Districts' rivers, lakes and lagoons are protected from the adverse effects of activities and structures on the surface of water.

Activities on the Surface of Water Rules

ASW – R2 Use of Motorised Watercraft for Non-commercial Use on the Surface of Rivers, Lagoons and Lakes

Activity Status Permitted

Where:

1. This does not occur on the surface of Lake Māhinapua or Māhinapua Creek/Tuwharewhare, Waitangiroto River, Makaawhio River, Arahura River, Kaimata/New River, Makatata Stream or Saltwater Lagoon (at Paroa) except:
 - a. As provided for in an Iwi/Papatipu Rūnanga Management Plan for these awa, roto and hāpua; or
 - b. Where the activity is for:
 - i. Mātauranga Māori monitoring;
 - ii. Scientific investigations or monitoring;
 - iii. Law enforcement;
 - iv. Search and rescue work;
 - v. Conservation work undertaken by the Department of Conservation in respect of their duties under the Conservation Act 1987, Wildlife Act 1953 or Fisheries Act 1983;
 - vi. The control and management of sports fish (as defined in the Conservation Act 1987) and game (as defined in the first Schedule of the Wildlife Act 1953) by Fish and Game New Zealand; or
 - vii. Biosecurity work carried out by West Coast Regional Council or Fish and Game New Zealand.

⁶⁴ Westpower Limited (S547.396)

⁶⁵ Department of Conservation (S602.129)

- viii. Access to landlocked parcels where primary and physical access is only achieved through crossing the waterbody
- ix. Use of Lake Māhinapua for the yachting regattas and club sailing associated with the Lake Māhinapua Aquatic Club during the sailing season of October to April where the craft are propelled by a motor but not exceeding a speed of 5 knots **except in an emergency response.**⁶⁶

ASW – R3 Installation of Structures on the Surface of Artificial Lakes and Ponds and Artificial Watercourses⁶⁷

Activity Status Permitted

ASW – R4 Installation of Structures on the Surface of Natural Waterbodies

Activity Status Permitted

Where:

1. These are temporary⁶⁸ whitebait stands installed in accordance with West Coast Whitebait Fishing Regulations; or
2. These are temporary mai mai installed for the purposes of lawful gamebird hunting provided these are removed within 2 weeks of the end of the game bird season;
3. These are temporary swimming platforms installed for a single swimming season; or
4. These are structures installed by Poutini Ngāi Tahu that are identified in an Iwi/Papatipu Rūnanga Management Plan for Arahura River, Makaawhio River, Waitangiroto River, Māhinapua Creek/Tuwharewhare, Makatata Stream or Lake Māhinapua ~~and have written approval of the relevant Poutini Ngāi Tahu rūnanga – Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio; or~~
5. This is **the laying of temporary marker buoys used** by the Lake Māhinapua Aquatic Club Inc. on Lake Māhinapua **during sailing season October to April**⁶⁹; or
6. This is the operation, maintenance and repair of existing structures where this is of the same or similar scale and intensity as of 14 July 2022⁷⁰.

Advice Note:

1. Whitebait stands are primarily regulated by the West Coast Regional Council through the West Coast Regional Land and Water Plan.
2. Where structures are proposed on the surface of waterbodies check the Natural Character and the Margins of Waterbodies provisions to determine whether consent is required for the landward portion of the structure located in any riparian margin.
3. Where structures are proposed on the surface of waterbodies within Sites and Areas of Significance to Māori these also subject to Rule SASM – R6 in the Sites and Areas of Significance to Māori Chapter
4. Written approval is from the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio and from Te Rūnanga o Ngāi Tahu in relation to Lake Māhinapua⁷¹
5. **For the avoidance of doubt, this rule does not apply to whitebaiting activities on the surface of water.**

⁶⁶ Lake Māhinapua Aquatic Club Inc (S332.002)

⁶⁷ Westpower Limited (S547.403)

⁶⁸ Ngāi Tahu (S620.197)

⁶⁹ Lake Māhinapua Aquatic Club Inc (S332.002)

⁷⁰ Westpower Limited (S547.0504)

⁷¹ Ngāi Tahu (S620.197)

ASW – R5 Permanent Swimming Platforms on the Surface of Natural Waterbodies

Activity Status Controlled

1. Where this does not occur in the Arahura River, Makaawhio River, Makatata Stream or Lake Mahinapua.

Matters of control are:

- a. Size, design and location of structure;
- b. Water safety measures;
- c. Compliance with any Iwi/Papatipu Rūnanga Management Plan or where this does not exist, advice from the relevant Poutini Ngāi Tahu Rūnanga – Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio; and
- d. Management of effects on natural character of the waterbody and its margins and
- e. Management of effects on ecological, biodiversity and conservation values⁷²;

ASW – R6 Commercial Activities on the Surface of Rivers, Lagoons and Lakes

Activity Status Restricted Discretionary

Where:

1. Any commercial activity on the Makaawhio River, Arahura River, Lake Mahinapua, Mahinapua Creek/Tuwharewhare, Makatata Stream, Saltwater Lagoon (at Paroa), Waitangiroto River or Kaimata/New River is in accordance with an Iwi/Papatipu Rūnanga Management Plan ~~and has written approval of the relevant Poutini Ngāi Tahu rūnanga – Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio~~

Discretion is restricted to:

- a. Effects on public access and recreational use of the waterbody;
- b. Effects on landscape, natural features or natural character of the waterbody and its margins;
- c. Effects on the amenity values or any adjacent residential activities;
- d. Effects on significant natural or historic heritage values including effects on scheduled sites or areas;
- e. Effects on ecological, biodiversity and conservation values⁷³
- f. Effects of noise on the natural character, ecological and amenity values; and
- g. Effects on Poutini Ngāi Tahu cultural values including access to mahinga kai and scheduled sites and areas.

Advice Note:

1. Where activities are proposed on the surface of waterbodies within Sites and Areas of Significance to Māori these also subject to rules in the Sites and Areas of Significance to Māori Chapter
2. Written approval is from the relevant Poutini Ngāi Tahu rūnanga - Te Rūnanga o Ngāti Waewae or Te Rūnanga o Makaawhio and from Te Rūnanga o Ngāti Tahu in relation to Lake Māhinapua.

⁷² Department of Conservation (S602.132)

⁷³ Department of Conservation (S602.133)

ASW – R7 Use of Motorised Watercraft for Non - Commercial Use, Commercial Activities, and Structures on the Surface of Water not meeting Permitted, Controlled or Restricted Discretionary Activity provided for in another⁷⁴ Rules.

Activity Status Discretionary

Notification: Any activity not provided for in an Iwi/Papatipu Rūnanga Management Plan for Makaawhio River, Arahura River, Lake Mahinapua, Mahinapua Creek/Tuwharewhare, Waitangiroto River, Makatata Stream Saltwater Lagoon (at Paroa) or Kaimata/New River always be limited notified to the relevant Poutini Ngāi Tahu rūnanga and may be publicly notified. When making notification decisions in relation to this rule, the Council will be informed by advice from Poutini Ngāi Tahu and should the application be notified, it will be served on the relevant Poutini Ngāi Tahu Rūnanga⁷⁵

Amendments to Planning Maps

- Amend the zoning maps so that waterbodies are identified as General Rural Zone.

⁷⁴ Forest and Bird (S560.528)

⁷⁵ Ngāi Tahu (S620.200)