

# APPENDIX 3 – OPERATIVE PLAN PROVISIONS AND PROPOSED AMENDMENTS PC45 Hearing Report

## **Key**

*Italics* – not part of PC45

Grey – altered by submission

Underlined – altered from operative text

[brackets] – new numbering as a result of re-formatting

## Chapter 2 - Definitions

**Forestry:** means activities associated with all planting of trees for carbon sequestration purposes or production forestry including associated activities of tracking, earthworks, land preparation, planting, pruning, thinning, clearing understorey (indigenous and exotic species), and harvesting means all activities associated with the preparation of land and subsequent planting and harvesting of <sup>1</sup> but excludes shelterbelts, planting for soil conservation purposes, and planting to form property boundaries, and excludes milling and other processing activities of the wood product.

Note that forestry of native trees has additional requirements in the Horizons One Plan and the Forest Act 1993.

**Indigenous vegetation:** means any naturally occurring association of indigenous plant species.

**Riparian Margin:** means the strip of land along the edge of a waterbody<sup>2</sup> including streams, lakes and wetlands. The riparian margin starts at the mean high spring water level.

This definition only applies to waterbodies<sup>3</sup> identified in Policy 10.3.18[10.3.1].

**Vegetation clearance:** means the destruction of vegetation (including indigenous vegetation) by any means, including cutting, burning, clearing or spraying; and excludes clearance of agricultural or horticultural crops, pasture, forest thinnings or coppicing, or any plant defined as a plant pest; or clearance of tracks for the use of foot traffic only; or any clearance for the purposes of a recognised river control scheme or any clearance for the normal maintenance of roads, railway lines and public utility networks; and includes clear felling of forest; and line clearance by bulldozer or similar machine for fences or planting.

**Waterways:** means any stream or river (whose bed has an average width of 3 metres or more) lake, wetland or coast.

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<sup>1</sup> Submission 8.1 (Rayonier)

<sup>2</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>3</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

## Chapter 10 - Natural Environment

Natural environment, for the purposes of this Plan, means the group of resources commonly considered as naturally occurring and includes flora and fauna (whether native or introduced), habitats, ecosystems (modified or natural), soils, rocks, and landscapes. Natural environment resources are present throughout the Whanganui District, including its urban areas. The Whanganui River, the Whanganui National Park, the District's soils, coastal dune systems, kaimoana, Matarawa Stream and Virginia Lake are all examples of natural resources.

Sections 6 and 7 of the Resource Management Act 1991 identify particular aspects of natural resources that are of national importance or of significant value. The Whanganui District Landscape and Ecology Study (1995) has provided a general index of known landscape and ecological resources which enables the Whanganui District to identify significant natural environment issues in respect of the Whanganui natural environment and provide guidance for resource management.

### RIPARIAN MARGINS

Water is an essential part of the New Zealand identity. It dictates where we have settled and what we have produced. Our District and Region are named after one of the central components of our landscape – the Whanganui River.

“Water is the life giver; it represents the blood of Papatuanuku, and the tears of Ranginui. Waterbodies<sup>4</sup> are home to many taniwha (spiritual beings) that look after the people and ensure their physical and spiritual protection”.

Today the waterbodies<sup>5</sup> in our District provide recreation, food, meditation and tourist opportunities both on the water and the surrounding land. The land directly adjoining a waterbody<sup>6</sup> is called a “Riparian Margin” and is one way the public may obtain access to and appreciate the waterbodies<sup>7</sup>.

In conjunction with Horizons Regional Council, Council has the responsibility to control land uses that could affect the values of riparian margins and the waterbodies<sup>8</sup>. The Regional Council looks after the ecological impacts and health of the waterbody<sup>9</sup> and the life forms dependant on it. The District Council is responsible for protecting and enhancing the spiritual elements and amenity values; including people's access to and enjoyment of activities on the riparian margins while respecting the cultural heritage links between Maori and the waterbodies<sup>10</sup>.

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<sup>4</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>5</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>6</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>7</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>8</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>9</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>10</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

## URBAN RIVER LANDSCAPE OVERLAY

The Whanganui River banks provide a visually attractive and distinctive setting for the city. The river, as a transport route, also provided the impetus for early settlement, commercial development and growth of the city centre.

Historically, development has turned its back to the river and buildings block views and access to the river bank. There is now a push from the community to embrace the river and provide a link between the city and the Whanganui River.

The central city is a focus for retail, office and professional activities. The banks of the Whanganui River are easily accessible from the central city, offering opportunities for passive and active recreation.

An extended walkway system as part of the Mountains to Sea New Zealand Cycle Trail is gradually being developed along the true right bank of the Whanganui River, between Aramoho and the City Bridge. However, pedestrian linkages between the central city and the river need to be enhanced.

Development in the urban area beyond City Bridge blocks views, reduces amenity for visitors entering Whanganui and discourages and restricts access to the river.

The purpose of this overlay is to recognise landscape and recreation values of the urban river overlay including public access to and along the River through managing new buildings in critical locations, including the design and external appearance of buildings and the landscaping of the area that surrounds them.

## PROTECTED TREES

Trees are part of our living heritage. Heritage defines the relationship between people and place and gives a sense of character and community identity. In particular, trees have been used to commemorate special events, places or people, sites of historic importance and attached to matters of cultural importance. Trees also provide for the maintenance and enhancement of amenity values by providing shade, a softening of the built environment and a food source for local wildlife.

Particular trees identified by the community are deemed to have significant value and are listed in Appendix C of this Plan. Development on or around these trees is limited in order to sustainably manage these resources for the duration of their lifespan.

## 10.1 ISSUES

### Riparian Margins

#### [10.1.1]

**10.1.5** The visual and spiritual values of our key waterbodies<sup>11</sup> are not always well defined or understood for the community, making it difficult to protect these waterbodies<sup>12</sup> and riparian margins from inappropriate use and development.

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<sup>11</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>12</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

### **10.1.1 The effect of human activity on the ecological health of the natural environment.**

There are limits on the ability of natural resources to absorb the adverse effects of activities. When these limits are exceeded there is a decline in the health and wellbeing of the natural environment.

The water quality, soil stability, vegetation cover and ecological diversity are key components of a healthy natural environment. Each of these components can accept only so much:

- a. pollution, from diffuse and point sources,
- b. accelerated rates of change resulting from human activity,
- c. loss of flora and fauna or their ability to reproduce at a sufficient rate to replenish,
- d. breaks in the ecological relationship between different parts of the natural environment system,
- e. reduction in overall area of natural environment,
- f. introduction of pests which have altered the natural functioning of ecosystems.

There is difficulty in defining the limits of the various resources which make up a healthy natural environment and also understanding the human activity that adversely affects these limits. Because our knowledge and understanding of these limits is rudimentary a precautionary approach may be prudent.

## **Urban River Landscape Overlay**

### **[10.1.2]**

- 10.1.6** High quality amenity values of the river margins which potentially provide a positive visual gateway to the urban area as well as public access to the Whanganui River, are threatened by the existence of activities which reduce the visual amenity on highly visible land in the vicinity.

## **Protected Trees**

### **[10.1.3]**

- 10.1.4** *Trees that make up a part of Whanganui's history, culture, amenity or contain unique ecological value need to be identified and protected from development. Their removal or modification may result in a reduction in amenity and quality of Whanganui's environment.*

## **Outstanding Natural Landscapes**

### **[10.1.4]**

#### **10.1.2 The effect of development on the quality of the landscape.**

*A good quality landscape is important for the district. Aesthetic surroundings contribute to people's wellbeing. Familiar and unique landscapes are also part of an identity. Key concerns relating to landscapes are:*

- a. What are the aspects which contribute to Whanganui's landscape?*
- b. Which landscapes or landscape components are significant?*
- c. What development threatens these landscapes?*
- d. What mechanisms are appropriate to ensure the quality of the landscape is maintained?*

*The Whanganui Landscape and Ecology Study have established some of the components that contribute to the landscape character of the district. In particular, the study collated a number of environmental data sets to identify landscape suites. However the visual and aesthetic significance of particular landscapes, threats from development, and management methods require further study.*

**[10.1.5]**

**10.1.3 Protection of natural environment areas of particular significance.**

*The Whanganui District has many significant natural features and landscape areas. Significant natural features include indigenous forest remnants, wetlands and indigenous vegetation. Some of these have recently been identified in the Whanganui Landscape and Ecology Study as:*

- a. Important to Tangata Whenua.*
- b. Places recognised by the public as being significant.*
- c. Rare or unusual within the Ecological District.*
- d. Protected by other means (Reserves Act, National Park, Protected Natural Areas Survey etc).*
- e. Recommended for protection by DOC or under Protected Natural Areas Survey programme.*
- f. Identified in the Regional Coastal Plan for Manawatu-Whanganui.*
- g. Critical as habitat for indigenous species (vegetation or animals).*
- h. Comprising more than 0.5ha of indigenous woody vegetation with average canopy height 6 metres or taller or with a continuous canopy of tree species which have the potential to reach trunk diameter of 30cm.*
- i. Contributing to the character or quality of an area which has locally/regionally significant or outstanding landscape value.*
- j. Catchment management values for protection of soil and water values and natural hazard mitigation.*
- k. Recommended for protection by the Regional Policy Statement for Manawatu-Whanganui.*

*At the time the study was completed not all of the above criteria could be applied to the District. Accordingly the Plan has identified the significant features as:*

- a. Protected Areas managed by the Department of Conservation (DOC).*
- b. Council's reserves of conservation value.*
- c. QEII National Trust areas protected by QEII open space covenants or owned by the Trust.*
- d. New Zealand Fish and Game Council significant sites.*
- e. Geo-preservation sites.*
- f. Areas of dominant indigenous vegetation cover.*
- g. Natural features and landscapes which are outstanding and regionally significant as defined in the Regional Policy Statement for Manawatu-Whanganui. In the Whanganui District, these are:*
  - the Whanganui River and river valley upstream of Aramoana;*
  - the Whanganui National Park; and*
  - the district's coastline.*
- h. Those areas of significant indigenous vegetation and habitats defined in terms of policy P9.1 of the Regional Policy Statement for Manawatu-Whanganui.*

*It should be noted that while significant areas of indigenous vegetation have been identified through the Department of Conservation Protected Natural Areas Programme, it is preferred not to identify and protect these sites in this review of the Whanganui District Plan. Rather a programme of consultation and negotiation is envisaged for each identified site with the goal of reflecting the level of protection to which the community aspires.*

*These features are noted on the Plan Maps and in the GIS Database.*

*While many of the significant features are known, the risk of their loss through human activity is not. Some of these features are protected through public ownership or covenant while others rely on their private owner for protection. At present, little is known about the risks associated with many of these significant natural areas. It may be that private owners are providing appropriate management regimes for these areas without any regulation or facilitation. Equally significant natural areas may be neglected or destroyed.*

*In addition to the identification of specific “outstanding” and “significant” natural features, Section 6(a) of the Resource Management Act also states that “the preservation of the natural character of the coastal environment ..., wetlands, lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development” is a matter of national importance. This applies in general terms even in the absence of any specifically identified features. Section 6(d) of the Act states that “the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers” is also a matter of national importance. The above resource management issues are also of significance in the Whanganui District.*

## **10.2 OBJECTIVES**

### **Riparian Margins**

**[10.2.1]**

**10.2.5** Preserve and protect the natural character of key waterbodies<sup>13</sup> which provide significant spiritual, cultural, amenity or access value to the community.

### **Urban River Landscape Overlay**

**[10.2.2]**

**10.2.6** Enhancement of the visual quality of the urban area gateway environment.

### **Protected Trees**

**[10.2.3]**

**10.2.4** *Recognition and protection of trees with significant historical, cultural, amenity or ecological value to the community.*

### **Outstanding Natural Landscapes Overlay**

**[10.2.4]**

**10.2.1 An ecologically healthy natural environment.**

*The natural environment is complex and dynamic, with many interactions (processes) between its parts. Some activities have the potential to destroy natural landscapes, ecosystems, habitats and natural processes. However, with appropriate planning and design, it is possible to carry out development in a way which does not compromise, or actively enhances, the health of the natural environment.*

**[10.2.5]**

**10.2.2 Landscape with high quality.**

*The quality of the landscape is important to the District and it is the Council's intention that development be encouraged, provided it does not have a significant adverse visual effect.*

**[10.2.6]**

**10.2.3 Natural environment features of particular significance are protected.**

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<sup>13</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

*A number of sites and areas within the District have particularly important characteristics which include scientific, ecological, landscape, heritage and amenity values. Many sites of national significance, or of significance within the Region or District, have already been identified, but many others may remain unrecognised or of indeterminate value.*

## 10.3 POLICIES

### Riparian Margins

#### **[10.3.1]**

**10.3.18** The following waterbodies are strategically important within the District and are collectively referred to as the 'key waterbodies'<sup>14</sup> in the Plan:

- a. Whanganui River and its tributaries
- b. Virginia Lake (Rotokawau)
- c. Westmere Lake (Roto Mokoia)
- d. Matarawa Stream
- e. Lake Wiritoa
- f. Whangaehu River
- g. Purua Stream
- h. West Coast/Tasman Sea
- i. The waterbodies<sup>15</sup> within Gordon Park Scenic Reserve
- j. Lake Purua
- k. Lake Kaitoke
- l. Riri a Te Hori Wetland
- m. Mowhanau Stream (on public land only)
- n. Kai Iwi Stream (on public land only)
- o. Twin Lakes (Otoko)
- p. Lake Rotokauwau
- q. The waterbodies<sup>16</sup> within Whitiua Scientific Reserve

#### **[10.3.2]**

**10.3.2** When considering applications to subdivide, use or develop land on or adjacent to key waterbodies<sup>17</sup>, adopt a precautionary approach and recognise actual and potential long term effects, on the quality of the environment.

#### **10.3.2 Adopt a conservation approach to natural environment resource management decision making.**

The two main features of a 'conservation' approach are: taking a precautionary view of the effects of proposed activities and having long term consideration of their potential effects. This means that the Council and community will err on the side of caution, especially where there is insufficient or inadequate information or where the environmental outcomes of an action cannot be predicted with a reasonable degree of certainty. They should also consider the potential effect beyond the span of this generation. This does not mean that developments cannot take place; it does mean that

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<sup>14</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>15</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>16</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>17</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)



their costs and benefits should be considered alongside those for the health of the environment.

### **10.3.7 Encourage the protection of identified areas of significant natural environment by land owners.**

The District Council or other agencies cannot own all the resources of the District with high natural environment values. The onus is on land owners to some extent to provide for the protection of these resources. Landowners should consider themselves guardians of the resource. In the protection of significant natural features, however, there is a need to balance public and private benefits and prior to imposing regulatory controls, alternatives such as financial incentives and other methods need to be evaluated.

Often education and awareness about sites and their value is enough for some owners to engage in permanent protection mechanisms, such as QEII Trusts, in New Zealand 75,000ha is protected this way by open space covenants.

### **[10.3.3]**

**10.3.8** Maintain, or enhance where appropriate, To preserve the natural character of the Districts waterbodies<sup>18</sup> (coast, wetlands, lakes and rivers) and their margins, and protect them from inappropriate subdivision, use, or development by providing for the natural character values and requiring avoidance or mitigation of adverse effects. natural character, ecological values and the extent to which adverse effects are avoided, remedied or mitigated.

Riparian margins are the interface areas between land and water. The maintenance or enhancement of riparian margins is important as they play an important role in:

- improving water conditions by stabilising land margins (ie. protecting land from erosion and reducing sedimentation of waterways);
- controlling water temperature through shading;
- improving water quality by restricting or filtering surface runoff from land (ie. reducing nutrient and sediment levels in the water);
- protecting and enhancing natural character and landscape values;
- providing ecological corridors for movement of wildlife;
- providing habitat on both land and water (ie. provision of vegetation for whitebait spawning);
- enabling public access and recreation along waterways.

There are a wide range of regulatory and non-regulatory approaches which can potentially be used to encourage riparian management. One regulatory method available under the Resource Management Act 1991 is the creation of esplanade reserves and strips at the time of subdivision. The Council has adopted this method to assist with the last of the above points (relating to public access and recreation along specified rivers and the coast only) and corresponding rules are contained in Section 26.7 of the "Subdivision Rules" chapter. However, with regard to the other points above (relating to the conservation values of riparian margins), the Council has selected a

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<sup>18</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

range of other regulatory and non-regulatory methods to encourage and/or require appropriate riparian management but the taking of esplanade reserves at the time of subdivision is not one of them. This is because reliance on the esplanade reserve provisions (in relation to subdivision) in Section 230 of the Act will not assist achievement of any significant conservation values. To do this, esplanade reserves and strips and other riparian management techniques would be required along many smaller tributaries in the headwaters of catchments. The Council considers that in such areas, riparian management is best promoted by non-regulatory means, particularly as the opportunity to take reserves upon subdivision occurs infrequently.

Even in the few cases where opportunity to take reserves upon subdivision is available, it is doubtful that the creation of esplanades would be a cost-effective method of conservation. This is particularly so as the planting of esplanades (by far the most effective method of contributing to the protection of conservation values) is best promoted in a non-regulatory manner.

In terms of regulation it is considered that specific rules relating to riparian areas are where appropriate, the imposition of riparian management conditions on land use and subdivision consents, are more effective methods of protecting conservation values than the formation of esplanade reserves at the time of subdivision.

It is noted that the Manawatu Whanganui Regional Council has prepared a strategy for the Whanganui River Catchment. This document identifies priority tributaries for action and suggests that soil conservation measures, particularly stabilisation of slopes and riparian management will improve water quality. In 1998/99 the Manawatu Whanganui Regional Council will also develop "Riparian Management Strategy" in conjunction with the Department of Conservation, Federated Farmers and the Fish and Game Council. This is likely to lead to action plans involving a range of non-regulatory methods to promote riparian management along priority water margins. The District Council considers that this is a practical approach that is likely to be more effective than a regulatory approach involving esplanade reserves in upper river catchments. Effort therefore will go into actively supporting the Regional Council strategies.

#### **[10.3.4]**

**10.3.9** To maintain, or enhance where appropriate, public access to and along the key waterbodies<sup>19</sup> indicated in Policy 10.3.18[10.3.1] <sup>20</sup>. coast, rivers and lakes of the District, except where such access is in conflict with other riparian management objectives where conservation values are of higher priority.

This policy is derived from Section 6(d) of the Resource Management Act 1991 and the New Zealand Coastal Policy Statement. While this policy aims to give effect to a "matter of national importance", it recognises that public access is not always appropriate, particularly in areas where it may conflict with important conservation values.

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<sup>19</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>20</sup> Submission 10.1 (Federated Farmers)

**[10.3.5]**

**10.3.7** To have particular regard for the maintenance and enhancement of conservation values, public access, amenity values and spiritual and cultural values, on key waterbodies<sup>21</sup>.

**[10.3.6]**

**10.3.19** To ensure activities adjoining key waterbodies<sup>22</sup> recognise and provide for:

- a. The importance of the waterbody<sup>23</sup> and riparian margin as a traditional food source.
- b. The presence of rare or threatened species.
- c. Existing public access and existing uses of the riparian margin area.<sup>24</sup>
- d. Social and cultural values associated to the area.

**10.3.7** Recognise that some network utilities have a function and locational need to be located in the Districts Natural Areas, including riparian margins and river environments and that their continued operation and maintenance is a functional requirement.<sup>25</sup>

### Urban River Landscape Overlay

**[10.3.8]**

**10.3.10** Recognise the central river margin Urban River Landscape Overlay area as a Landscape Conservation Area and promote quality landscape and urban design to maintain and enhance urban amenity, cultural landscape and recreational values of this environment. good landscape and building design as a means of conservation of landscape and recreation values.

The central river margin area occupies a very important gateway location to the city. Visual amenities and the character and quality of development at this gateway location contributes to, and enhances, the landscape values of the river-side environment.

This policy recognises the central river margin area as a priority area for landscape conservation within the urban area. A central river margin landscape conservation area is identified on the Plan Maps.

The focus of landscape conservation is good landscape and building design. There is a need to strengthen the physical and visual links between the central river margin and surrounding areas, particularly the Whanganui River. Views to and across the river and landmarks need to be identified and protected. Appropriate planting needs to be introduced to enhance the visual appearance of the area. An attractive landscape also maintains and enhances the recreation values of the area.

This policy relies on a mix of management options, including regulations. However, the key is the preparation of a comprehensive landscape plan. The landscape plan shall provide a cohesive framework to guide future development and the implementation of specific projects to protect and enhance landscape and recreation values in the central river margin area.

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<sup>21</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>22</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>23</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>24</sup> Submission 10.1 (Federated Farmers)

<sup>25</sup> Submission 7.1 (Transpower) and Further submission 2.1 (Powerco)

Guidelines and controls will also be introduced to ensure that all new development is appropriately located and is of an appropriate design, material and scale. The guidelines and controls for the central river margin landscape conservation area apply in addition to those set up under other zoning applying to the area.

### **[10.3.9]**

- 10.3.11** Promote and enhance visual and physical links and access to and along the urban river margin landscape overlay area by:
- a. preserving key view corridors and view points to and from the Urban River area; and
  - b. providing for development that enhances the visual and physical access between the urban area and the river that maintains the landscape values.

Where an activity would have been a permitted activity under the underlying zone but requires resource consent under the above provisions, the Council will consider waiving resource consent fees.

The banks of the Whanganui River provide opportunities for passive and active recreation. Access to and along the river is a key to participating in recreation opportunities. Access includes visual and physical access like view corridors, view points, walkways, parking and visitor facilities.

A walkway from Aramoho is being extended progressively towards the central city. There are opportunities for extending the walkway to the estuary and to link up with other pedestrian routes. An appropriate route for a river bank walkway needs to be identified and protected. Where it is not possible to have a continuous route over parts of the river bank, key access points need to be identified and preserved.

View points or view corridors complement physical access. They provide critical links where a continuous physical route cannot be provided. Identification and protection of view points or view corridors form part of this policy.

This policy relies on Council's operations functions for implementation. Council already has an on-going programme of works for walkways' development. Consultation and co-operation with property owners is also necessary.

- 10.3.10** Recognise that some network utilities have a function and locational need to be located in the Districts Natural Areas, including riparian margins and river environments and that their continued operation and maintenance is a functional requirement. <sup>26</sup>

## **Protected Trees**

### **[10.3.11]**

#### **10.3.12 Retention of Trees**

*To recognise and protect significant trees (or groups of trees) that contribute to the history, ecology, character or amenity for the Whanganui community as identified in Appendix C.*

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<sup>26</sup> Submission 7.1 (Transpower) and Further submission 2.1 (Powerco)

**[10.3.12]**

**10.3.13 Protection of Trees**

*To manage land use and development to avoid, remedy or mitigate any adverse effect on protected trees.*

**[10.3.13]**

**10.3.14 Protected Tree Promotion**

*To promote the history, location and special features of significant trees to the public.*

**[10.3.14]**

**10.3.15 Length of Tree Protection**

*Protected Trees shall be retained for their natural life unless this would create an immediate risk to life or property.*

**[10.3.15]**

**10.3.16 Propagation of Trees**

*To recognise that trees have a finite lifespan and to require the re-planting of prodigy in the same or related location, when a protected tree has reached the end of its life.*

**[10.3.16]**

**10.3.17 The removal of Protected Trees**

*Any application to modify or remove a Protected Tree shall be assessed against the following:*

- a. Whether the tree is near the end of its natural lifespan or if the work will extend the life of the tree*
- b. The ability to replant with off-spring from the tree with a root ball of no less than PB40 (note that some species have a higher requirement)*
- c. How the location is to be cleared and restored after removal of the tree*
- d. The historical, cultural, amenity or ecological value of the tree*
- e. An independent Arborist assessment on the condition of the tree and any works to be completed*
- f. The mulching and definition of the extent of the root/drip line to prevent future damage to the tree or its replacement*

**Outstanding Natural Landscapes Overlay**

**[10.3.17]**

**10.3.1 Promote understanding within the community about effects of activities on the health of the natural environment.**

*To achieve a healthy natural environment it is important that people understand the inter-connected nature of the environment. This is best achieved when people are provided with useful information about activities and their potential or actual effects on the environment, to then make sound decisions. In pursuing its role as provider of information, Council will ensure that the community understands how particular activities can adversely affect or be altered to enhance the natural environment in Whanganui.*

### **[10.3.18]**

#### **10.3.3 Monitor the health of the natural environment and revise management as appropriate.**

*It is important for the community to know how the state of health of all the environment is changing, either naturally or through the effects of activities on particular areas or components. Monitoring involves regular sampling or measuring, and also means there has to be feedback into the planning process to ensure that adverse effects are avoided where possible. Section 35 of the RMA sets out requirements for State of the Environment Monitoring to be carried out by local authorities. The Council will initiate a State of the Environment Monitoring (SEM) strategy to set out its philosophy and programme. Monitoring of consents compliance would also provide input. Monitoring of the natural environment would be a part of the SEM strategy and programme (refer Monitoring Statement).*

### **[10.3.19]**

#### **10.3.4 Identify the landscape characteristics of the Whanganui District.**

*The Council has limited existing information about the landscape characteristics of the District. The Whanganui Landscape and Ecology Study (1995) has identified known landscape features and ecological areas of significance based on existing information. An assessment building on the Study which ascribes values to the landscape may be undertaken at some time in the future. However, in the interim the effects of development proposals on environmental quality and amenity values (including landscape qualities) will need to be considered in each case on their merits in respect of effects on the quality of the landscape. This means that resource consent applications should identify the landscape context within which the development is to occur and in particular its effects on outstanding natural features, landscapes and ecological areas of significance. The assessment needs to be in such detail as corresponds to the scale and significance of the effects of the proposed activity.*

### **[10.3.20]**

#### **10.3.5 Encourage the maintenance and enhancement of the quality of the environment.**

*The Council aims to encourage the maintenance and enhancement of the district's landscape values but recognises that many developments will have some form of visual effects. This policy, therefore, does not necessarily seek to preserve the status quo. It seeks to encourage consideration of landscape issues and, where there will be adverse visual effects, to encourage ways of avoiding, remedying or mitigating those effects. The Council recognises that the most effective long term method to achieve the objective of high landscape quality is to encourage people of the District to understand and respect the environment.*

### **[10.3.21]**

#### **10.3.6 Identify and protect the sites or areas of significance according to set criteria.**

*It is important to protect the known existing areas of significance. The Regional Policy Statement for Manawatu-Whanganui has identified the Whanganui River and river valley upstream of Aramoana; the Manganui A Te Ao River and river valley, including the Makatote and Mangaturuturu Rivers and their valleys; the Coastline of the Region as significant natural areas. Other areas of known natural heritage are therefore listed in Appendix A - Heritage Items, and rules on the subdivision and development of land relating to these resources take a precautionary approach.*

*However, it is not sufficient to protect the sites or areas per se, but to understand the qualities which make them valuable and ensure that the sites or areas are managed in a way which protects those qualities. While the Department of Conservation has a major responsibility for conservation within the District, and the Regional Council shares with the*

*District some responsibility for land and water resources, the District Council will ensure that sites of local or District significance are managed sustainably. It is important for people to know why a site or area is considered significant and what activities would potentially adversely affect it. The Council will work with other agencies such as the Department of Conservation, to ensure that the evaluation systems are compatible.*

## [10.4]

### 10.6 RULES – INDIGENOUS FOREST & RIPARIAN MARGINS

Note: The Manawatu-Wanganui Regional Council should be consulted regarding any activity which results in disturbance to the beds of waterbodies<sup>27</sup> and their riparian margins, to identify any Regional Council requirements.

#### [10.4.1]

##### 10.6.1 **Permitted activities.**

The following are permitted activities provided they shall<sup>28</sup> comply with the Performance Standards of the underlying zone as well as any other relevant chapters relevant throughout the District:

a. Any activity which complies with the performance standard 10.5.

- a. Activities on or near waterbodies<sup>29</sup> not listed in Policy 10.3.18[10.3.1]<sup>30</sup> as a key waterbody<sup>31</sup>.
- b. Activities within 20 metres of a key waterbody<sup>32</sup> listed in Policy 10.3.18[10.3.1]<sup>33</sup> and that involve:
  - i. Replacement, maintenance, upgrade or removal of an existing network utility, or a fence, bridge, culvert, ford or flood protection structure.
  - ii. Clearance of plant pests and restoration of indigenous biodiversity.
  - iii. Maintenance of existing or installation of new cables and lines in, under or over roads, bridges or culverts.
  - iv. Installation of a new fence, bridge, culvert, ford or flood protection structure.<sup>34</sup>
  - v. Conservation, river management or habitat restoration activities.<sup>35</sup>

##### 10.6.2 **Controlled activities.**

The following activities are controlled activities throughout the District:

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<sup>27</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>28</sup> Submission 3.1 (Powerco)

<sup>29</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>30</sup> Submission 3.1 (Powerco)

<sup>31</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>32</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>33</sup> Submission 3.1 (Powerco)

<sup>34</sup> Submission 10.2 (Federated Farmers) and Further submission 1.1 (Horizons)

<sup>35</sup> Submission 10.2 (Federated Farmers) and Further submission 1.1 (Horizons)

- a. ~~Any activity which does not comply with the performance standards in 10.5.3, other than those associated with any network utility.~~

~~The Council will exercise control over the following matters in relation to these activities:~~

- ~~i. timing of vegetation clearance;~~
  - ~~ii. proposals for replanting or revegetation;~~
  - ~~iii. extent of vegetation clearance;~~
  - ~~iv. fencing within riparian margins and limiting access of stock to specific areas;~~
  - ~~v. proposed techniques for harvesting;~~
  - ~~vi. the ability to mitigate effects by silt traps, or bank retainment similar structures;~~
  - ~~vii. the effect on water habitats and land based habitats within the riparian edge.~~
- b. ~~Earthworks and structures within 20m of any waterway, except those activities permitted by 10.5.2 or 10.5.3, associated with any network utility provided that:~~
- ~~i. Such earthworks shall not exceed 1 metre in depth and 600m in width for the undergrounding of cables, pipes, or lines; or~~
  - ~~ii. Such earthworks shall not exceed a volume of 50m<sup>3</sup> for any pole or structure; and~~
  - ~~iii. Those earthworks will not result in permanent removal of riparian vegetation; (excluding plant pests) and~~
  - ~~iv. Those earthworks will not cause adverse effects in the structural integrity of the bank of the adjoining waterway;~~
  - ~~v. All structures meet the permitted activity standards relating to structures for the underlying zone. Where the structure is located in road reserve, the structure must be consistent with the permitted activity standards for structures in the adjoining zone.~~

#### [10.4.2]

#### **10.6.3 Restricted Discretionary Activities.**

The following are restricted discretionary activities ~~throughout the district:~~

- a. ~~Earthworks associated with any network utility within 20 metres of any waterway that are not provided for under rules 10.5.2, 10.5.3 or 10.4.2.~~

~~The Council retains its discretion over the following matters in relation to these activities:~~

- ~~i. The effect of the activity on riparian vegetation (excluding plant pests);~~
  - ~~ii. The effect of the activity on landscape amenity.~~
- a. Activities within 20 metres of a key waterbody<sup>36</sup> (listed in Policy 10.3.18[10.3.1]<sup>37</sup>) that are not provided for in Rule 10.6.1[10.4.1].

<sup>36</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>37</sup> Submission 3.1 (Powerco)



Council restricts its discretion to the following matters:

- i. effects on the spiritual/cultural values of the waterbody<sup>38</sup>;
- ii. effects on the landscape amenity;
- iii. Any enhancement of the public access or visual amenity of the area.
- iv. The necessity to undertake the activity at the riparian edge or within the riparian margin.

Note: Refer also to the esplanade reserve requirements in Chapter 13A, Subdivision Rules, Section 13.8 and to the financial contribution provisions in Chapter 20 of this Plan, in relation to activities requiring subdivision or landuse consent along waterbodies<sup>39</sup>.

#### **10.6.4 Discretionary activities.**

The following are discretionary activities throughout the District:

- a. Any activity which does not comply with the performance standards in 10.4.1 (c) above.
- b. Any activity which does not comply with the performance standards in 10.5.2, other than those associated with any network utility.

Note: The Manawatu-Whanganui Regional Council should be consulted regarding any activity which results in disturbance to waterbodies, in order to determine any Regional Council requirements which apply.

Note: Refer also to the esplanade reserve requirements in Chapter 13A, Subdivision Rules, Section 13.8 and to the financial contribution provisions Chapter 20 of this Plan, in relation to activities requiring subdivision or landuse consent along waterways.

## **10.7 PERFORMANCE STANDARDS**

**10.7.1** No activity shall result in the removal, in any one calendar year, of more than 0.5 hectares of indigenous forest. For the purpose of this rule “indigenous forest” is defined as indigenous vegetation where:

- a. an average canopy height of 6 metres or taller; or
  - b. a continuous canopy of trees with the potential to reach 30cm trunk diameter;
- but excluding:
- i. kanuka and manuka when not accompanied by other indigenous tree species, and
  - ii. indigenous species used for production of forestry, and
  - iii. indigenous vegetation which has grown beneath production forestry.

This rule applies to the clearance of more than 0.5 hectares of indigenous forest in one contiguous area and to the clearance of smaller areas where the total area of indigenous forest cleared in the locality is more than 0.5 hectares. (This rule does not apply to the removal of indigenous forest for the maintenance of safety of network utilities).

<sup>38</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>39</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

~~10.7.2 No building (other than the replacement, upgrade or removal of an existing network utility, or a fence, bridge, culvert, ford or flood protection structure e.g. flood gate) shall be built within 20 metres of a waterway.~~

~~10.7.3 No activity (other than maintenance, upgrading, replacement or removal of existing network utility systems) shall result in vegetation clearance (including indigenous vegetation) within 20 metres of the edge of any waterway.~~

~~Performance standards 10.5.2 and 10.5.3 shall not apply to the clearance of plant pests, or to new cables and lines in, or, under or over roads, bridges or culverts.~~

~~For the purposes of this rule 10.5.2 and 10.5.3, the term “upgrade” shall mean any increase in the carrying capacity, efficiency or security of lines or cables, utilising the existing support structures, or structures of a similar scale and character.~~

~~Note: Applications for activities which do not comply with Performance Standard 10.5.3 will not be publicly notified. Consents will not be required from any affected party.~~

~~An application need not be publicly notified if the consent authority is satisfied that the adverse effect on the environment of the activity will be minor and written approval has been obtained from every person whom the Council is satisfied may be adversely affected by the granting of the resource consent, unless the Council considers it is unreasonable in the circumstances to require the obtaining of every such approval.~~

[10.5]

## 10.7 URBAN RIVER MARGIN CONSERVATION LANDSCAPE OVERLAY

~~Rules 10.7, 9.4 - 9.9, 10.1 - 10.8 and 10.6.1 - 10.6.4 apply to activities in the River Margin Landscape Conservation zone, which is an “overlay” zone along the true right bank of the Whanganui River, approximately from Moutoa Gardens to opposite 284 Taupo Quay (refer to Planning Maps U21, U22, U26). The underlying zoning along this stretch varies between Reserves and Open Space zone, Manufacturing zone and Outer Commercial zone. At one location in the Old Town (i.e. the river side of Taupo Quay between Victoria Ave and Moutoa Gardens), the River Margin Landscape Conservation zone also coincides with another “overlay” zone, the Old Town Conservation zone.~~

### **Conservation of landscape and recreation values of the central river margin area.**

~~The Whanganui River is an outstanding landscape feature in the district. The river banks provide a visually attractive and distinctive setting for the city. The river, as a transport route, also provided the impetus for early settlement, commercial development and growth of the city centre.~~

~~Through the Community Views Surveys, and after various public consultation, concerns were being raised by the community about the poor visual image and environmental qualities of the development in the central river margin area, along Taupo Quay between St Hill Street and the Cobham Bridge. This area fronts onto the Whanganui River, and is immediately opposite State Highway 4 (Putiki Drive), a route identified as the gateway to the central city.~~

~~The physical character of the development is considered to be incompatible with, and to detract from, the outstanding cultural, landscape and recreation values of the Whanganui River. There is no consistency or cohesion in the pattern and style of~~

building development between the central river margin area and the adjoining development in the Old Town. Historically, design and external appearance of individual buildings have little architectural merit. The development has turned its back to the river and buildings block views and access to the river bank.

Public access to and along the central river margin.

The central city is a focus for retail, office and professional activities. The banks of the Whanganui River are easily accessible from the central city, offering opportunities for passive and active recreation.

An extended walkway system is gradually being developed along the true right bank of the Whanganui River, between Aramoho and the City Bridge. However, pedestrian linkages between the central city and the river are not well developed. Taupo Quay, a major traffic route, also acts as a physical barrier to movement between the central city and the river.

Development in the central river margin area beyond City Bridge blocks views, and discourages and restricts access to the river. In the area between Wilson Street and the end of Taupo Quay, there is minimal physical access to and along the river.

The purpose of this zone is to recognise landscape and recreation values of the central river margin zone including public access to and along the central river margin through managing new buildings in critical locations, including the design and external appearance of buildings and the landscaping of the area that surrounds them.

#### **7.8.1 Precedence of rules where there is a conflict.**

Where there is a conflict between the rules of the underlying zone and the rules of this overlay zone, the more stringent activity status applies. For the avoidance of doubt:

- a. Where an activity is a permitted activity in the underlying zone and no construction or exterior alteration of structures is proposed, the activity is a permitted activity.
- b. Where an activity is a permitted activity in the underlying zone but involves proposed construction or exterior alteration of a structure, then the activity is a restricted discretionary activity in accordance with the rules 10.6.2 – 10.6.4.
- c. Where an activity is a non-complying activity in the underlying zone but involves proposed construction or exterior alteration of a structure, then the activity remains a non-complying activity.

Where there is conflict between the rules of the underlying zone and the rules of this overlay, the more stringent activity status applies, no matter which chapter of the Plan it appears in.

### **[10.5.1]**

#### **10.6.1 Permitted activities.**

The following are permitted activities provided they shall<sup>40</sup> comply with the Performance Standards of the underlying zone as well as any other relevant chapters:

- a. Replacement, maintenance, upgrade or removal of an existing network utility, or a fence, bridge, culvert, ford or flood protection structure.

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<sup>40</sup> Submission 3.1 (Powerco)

Note: The Manawatu-Wanganui Regional Council should be consulted regarding any activity within 10 metres of the Whanganui River or within 8 metres of the landward toe of a flood protection structure including stopbanks, to confirm any Regional requirements.<sup>41</sup>

[10.5.2]

**10.8.2 Restricted Discretionary Activities.**

The following are restricted discretionary activities in the Urban River Margin Landscape Conservation:

a. Erection of new structures.

Council restricts its discretion to the following matters:

- i. Effects on amenity values including views and access to and along the river margins.
- ii. Effects on the landform, including physical characteristics of the riverbank and esplanade reserve.
- iii. The effect of the form, mass, proportion and materials of any buildings on the overall visual amenities and on any specifically identified views to be protected.
- iv. Landscaping proposals, including design and materials, and the effects of the landscaping on the visual amenity and on any specifically identified views shafts.
- v. whether or not any structures individually or collectively forms a visual landmark and makes a positive contribution to the character of the area.

~~a. The construction or placement of new structures and the exterior alteration or extension of existing structures, except that this rule does not apply to minor repairs which are defined as those alterations or other changes that do not substantially alter the structure, design or appearance of the building.~~

~~\_\_\_\_\_ Council's discretion is restricted to:~~

- ~~i. The effect of any activity on views and access to and along the river frontage.~~
- ~~ii. The effect of activities on the landform, including physical characteristics of the riverbank and esplanade reserve.~~
- ~~iii. The effect of the form, mass, proportion and materials of any buildings on the overall visual amenities and on any specifically identified views to be protected.~~
- ~~iv. Landscaping proposals, including design and materials, and their effect on the visual amenity and on any specifically identified views to be protected.~~

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<sup>41</sup> Submission 1.1 (Horizons) and Further submission 3.1 (Federated Farmers)

- v. ~~The impact of the proposed development, whether or not it individually or collectively forms a visual landmark and makes a positive contribution to the character of the River Margin Landscape Conservation zone.~~

### **10.8.3 Notification.**

- a. ~~Applications for alterations or extensions to existing buildings which are not listed in Appendix A will not be publicly notified. Consents will not be required from any affected party.~~
- b. ~~An application need not be publicly notified if the consent authority is satisfied that the adverse effect on the environment of the activity will be minor and written approval has been obtained from every person whom the Council is satisfied may be adversely affected by the granting of the resource consent, unless the Council considers it is unreasonable in the circumstances to require the obtaining of every such approval.~~

### **10.8.4 Waiver of Resource Consent Fees.**

~~Where an activity would have been a permitted activity under the underlying zone but requires resource consent under the above provisions, the Council will waive resource consent fees.~~

**[10.6]**

## **10.9 RULES - PROTECTED TREES**

*The following rules apply to any tree shown as a Protected Tree in Appendix C.*

**[10.6.1]**

### **10.9.1 Permitted activities.**

*The following are permitted activities throughout the District:*

- a. *Minor trimming and<sup>42</sup> maintenance to any protected tree. This is limited to:*
- i. *trimming and<sup>43</sup> clearance of foliage or branches no greater than 100mm in diameter<sup>44</sup> from existing utility networks, which have the potential to compromise the operation of the network utility (or access to),<sup>45</sup> street lights or land boundary encroachments that does not alter the shape or health of the tree;*
  - ii. *clearance of foliage or branches no greater than 100mm in diameter from roads, footpaths and driveways that does not alter the shape or health of the tree;*
  - iii. *removal of deadwood from trees;*
  - iv. *the removal of dead or diseased vegetation;*
  - v. *clearance and clean-up after storm damage including broken branches.*
  - vi. *fencing of Protected Trees within the dripline when the location of the fence is approved by an Arborist and the assessment submitted to Council:*

<sup>42</sup> Submission 7.1 (Transpower) and Further submission 2.1 (Powerco)

<sup>43</sup> Submission 7.1 (Transpower) and Further submission 2.1 (Powerco)

<sup>44</sup> Submission 7.1 (Transpower) and Further submission 2.1 (Powerco)

<sup>45</sup> Submission 7.1 (Transpower) and Further submission 2.1 (Powerco)

- vii. *controlling pest plants and weeds within the dripline by methods not harmful.*
- b. *Destruction or removal of any protected tree with an Arborist assessment submitted by Council stating the work is:*
  - i. *As an emergency work to maintain or restore existing power or telecommunication links.*
  - ii. *To safeguard life or property.*

**[10.6.2]**

### 10.9.2 *Controlled activities.*

*The following activities are controlled activities throughout the District:*

- a. *Alteration of the shape or health of a protected tree as part of a Tree Maintenance Programme.*
- b. *Removal of a protected tree that will be replaced with the progeny of the same tree.*

### [10.6.3]

#### 10.9.4 Discretionary activities.

*The following are discretionary activities throughout the District:*

- a. *The modification, destruction or removal of any protected tree except as provided for above.*
- b. *Any activity including excavation, construction or reconstruction work within the drip line of a protected tree, unless stated as a permitted activity.*

# 13 SUBDIVISION AND INFRASTRUCTURE

## 13.8 ESPLANADE RESERVE AND STRIPS

Section 229 of the Resource Management Act lists the main purposes of esplanade reserves and strips as being:

- a. protection of conservation values (particularly: natural functioning of waterbody<sup>46</sup>, water quality, aquatic habitats, natural values of the esplanade reserve or strip, mitigation of natural hazards)
- b. enabling public access to sea, river or lake
- c. enabling public recreational use where the use is compatible with conservation values.

~~The Council's approach to esplanade reserves and strips is set out in the discussion under Policy 10.3.8. In summary, the Council seeks to create esplanade reserves and strips at the time of subdivision along specified rivers and the coast where there is significant recreation value to achieve (b) and (c) above. However, Council does not seek to use esplanade reserves and strips to achieve (a) above. Refer to Policy 10.3.8 for the reasons for this approach. While the protection of conservation values is regarded as very important, the Council has adopted other regulatory and non-regulatory methods to better achieve this outcome.~~

This is because reliance on the esplanade reserve provisions (in relation to subdivision) in Section 230 of the Act will not assist achievement of any significant conservation values.

Even in the few cases where opportunity to take reserves upon subdivision is available, it is doubtful that the creation of esplanades would be a cost-effective method of conservation. This is particularly so as the planting of esplanades (by far the most effective method of contributing to the protection of conservation values) is best promoted in a non-regulatory manner.

### 13.8.1 **Where an esplanade strip may be required**

*An esplanade strip may only be required on a waterbody<sup>47</sup> where the strip has significant recreation potential.*

*Where an esplanade reserve is required by 13.6.3 above, and one or more of the following circumstances exist, the Council may instead impose a condition of consent requiring an esplanade strip:*

- a. *Where the mark of MHWS, river bank or lake margin may change.*
- b. *Where it is desirable for the adjoining landowner to retain ownership of the land subject to an esplanade reserve, in order to maintain or promote the efficient and effective use of the adjoining land.*

<sup>46</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

<sup>47</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)

- c. *Where the mitigation of natural hazards would be better addressed by the creation of an esplanade strip.*
- d. *Where public usage is likely to be facilitated or promoted by the creation of an esplanade strip.*
- e. *Where the costs of the provision and maintenance of an esplanade reserve, including the costs of compensation (where applicable), are more than the public benefits in respect of the purposes of an esplanade reserve. In assessing this, it shall be recognised that benefits primarily in terms of access has value which cannot readily be expressed in monetary terms.*
- f. *Where the creation of an esplanade reserve would create economic hardship, risks to public safety or to the security of plant, machinery, stock or other property.*

### **13.8.2 Circumstances in which the width of esplanade reserves or esplanade strips may be varied or the requirement waived**

*The width of an esplanade reserve or esplanade strip may be varied or completely waived under the following circumstances.*

- a. *Where the recreational values are so limited that no esplanade strip or esplanade reserve can be justified.*
- b. *Where special recreational values, cultural significance or public access arrangements warrant a wider or narrower esplanade reserve or esplanade strip.*
- c. *Where topography or the siting of any building or other feature renders the 20 metre width excessive in regard to meeting the recreational and cultural purposes of the esplanade reserve or esplanade strip.*
- d. *Where access to an existing or potential future reserve would be enhanced by the extra width.*
- e. *Where the protection of waahi tapu or other taonga, as well as the provision of access to areas of importance to Maori, will be maintained or enhanced.*
- f. *Where the land is within a natural hazard area or where there is an identified risk from one or more natural hazards (such as coastal erosion).*
- g. *Where the costs of the provision and maintenance of a 20m wide esplanade reserve or esplanade strip, including the costs of compensation for any increased width, are more than the public benefits in respect of the purposes of the esplanade reserve or esplanade strip. In assessing this, it shall be recognised that benefits in terms of improved water quality, habitat and access have important values which cannot readily be expressed in monetary terms.*
- h. *Where no additional allotments are being created by the subdivision.*
- i. *Where access to and along the waterbody<sup>48</sup> is facilitated by the existence of alternative legal access (such as paper roads).*

### **13.8.3 Matters which are included in an instrument to create an esplanade strip**

*The tenth schedule of the Resource Management Act identifies matters which are to be included in an instrument to create an esplanade strip. The 'instrument' is registered on land titles and contains the following standard conditions.*

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<sup>48</sup> Minor amendment to terminology as a result of submission 8.1 (Rayonier)



*Prohibitions include:*

- *Willfully endangering, disturbing, or annoying any lawful user (including the land owner or occupier) of the strip:*
- *Willfully damaging or interfering with any structure adjoining or on the land, including any building, fence, gate, stile, marker, bridge, or notice:*
- *Willfully interfering with or disturbing any livestock lawfully permitted on the strip.*

*The following acts are also prohibited on the strip:*

- *Lighting any fire:*
- *Carrying, discharging or shooting any firearm:*
- *Camping:*
- *Taking any vehicle on to, or driving or having charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised):*
- *Willfully damaging or removing any plant (unless acting in accordance with the Noxious Plants Act 1987 or the Biosecurity Act 1993):*
- *Laying any poison or setting any snare or trap (unless acting in accordance with the Agricultural Pests Destruction Act 1967 or the Biosecurity Act 1993).*

*The previous prohibitions will not apply to the owner/occupier of the strip or land unless the instrument specifically states so.*

*The following management measures may be included in the instrument:*

- *Conditions relating to animal access and/or animal control, including use of the strip for dog exercise:*
- *Closure of the strip for farm management purposes, for any specified period, including particular times and dates:*
- *Provision of signage or markings for closures and other restrictions, hazard warnings and boundary demarcation:*
- *Provision of fencing.*

*Where the Council and the landowner agree that works need to be completed for the safety or convenience of the public using the strip, the nature of these works shall be settled by negotiation between the land owner and the Council, with Council paying for any works of public benefit.*

#### **13.8.4 Compensation**

- a. *Section 237E of the Resource Management Act 1991 states that no compensation for esplanade reserves or esplanade strips is payable where an allotment of less than 4 hectares is created when land is subdivided;*
- b. *Section 237F of the Act states that compensation is payable in respect of any esplanade reserve or strip required on, or from, an allotment of 4 hectares or more which is created.*

## 23 ASSESSMENT CRITERIA

### 14.3 INDIGENOUS VEGETATION

In addition to those matters listed in the general assessment criteria section, indigenous vegetation removal which is not a permitted activity shall be assessed according to the following criteria:

- a. Whether the indigenous vegetation resource has significance to Tangata Whenua and the outcome of consultation with Iwi if this is the case.
- b. The role the vegetation plays as a habitat for indigenous species of animals and its significance for such matters as migratory routes and food sources.
- c. The relationship of the vegetation to waterways and the effect of its removal on the water quality and health of waterway habitats.
- d. The effect on the health and life expectancy of any adjoining areas of indigenous vegetation which are not removed.
- e. Whether the area of vegetation has been identified as being of particular significance having regard to the criteria in Issue 7.1.5 – Protection of the Natural Environment.

### 14.5 RIPARIAN MARGINS

In addition to those matters listed in the general assessment criteria section, work within the riparian margins which is not a permitted activity shall be assessed according to the following criteria:

- a. Where vegetation is affected, the degree to which some revegetation can take place.
- b. Where physical activities are to occur, the ability to mitigate effects by silt traps, or bank retainment similar structures.
- c. Whether riparian areas can be isolated to prevent damage.
- d. The necessity to undertake the activity at the riparian edge.
- e. The effect on water habitats and land based habitats within the riparian edge.
- f. Whether the potential effect in terms of flood risk and erosion risk can be avoided or mitigated.