

BEFORE THE HEARING PANEL

UNDER THE

Resource Management Act 1991

IN THE MATTER OF

Submissions and Further Submissions on the
Proposed Gore District Plan

BETWEEN

GORE DISTRICT COUNCIL

Local authority

AND

**SOUTHLAND FEDERATED FARMERS OF
NEW ZEALAND INC**

Submitter number 126

Further submitter number 17

**GORE PROPOSED DISTRICT PLAN – HEARING 9 ‘NATURAL FEATURES
AND LANDSCAPES, AND NATURAL CHARACTER’**

**HEARING STATEMENT OF KATE SANNAZZARO ON BEHALF OF
SOUTHLAND FEDERATED FARMERS OF NEW ZEALAND
(INCORPORATED)**

27 JANUARY 2025



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INTRODUCTION

1. My name is Karen (Kate) Lisa Sannazzaro. I hold a Bachelor of Science (Honours) with First Class Honours, majoring in Geology from the University of Auckland. I have over twenty years' experience in the field of environmental policy and planning, including at city and regional councils, and at the Ministry for the Environment. I am an Associate Member of the New Zealand Planning Institute (**NZPI**).
2. I am employed by Federated Farmers of New Zealand (Incorporated) (**Federated Farmers**) as a Senior Policy Advisor.
3. Southland Federated Farmers of New Zealand (Incorporated) (**Southland Federated Farmers**) made a submission and a further submission on the Proposed Gore District Plan.
4. I have read and reviewed the following documents:
 - (a) Minute 18 – Natural Character, dated 10 September 2024 including:
 - (i) Appendix 1: Recommended Natural Character Chapter (**NATC**)
 - (ii) Appendix 2: Recommended Appendix 6 – Natural Character Values of Rivers and Streams
 - (iii) Appendix 3: Supplementary Evidence in response to Minute 18 – Mike Moore, 19 November 2024
 - (iv) Appendix 4: Memorandum of Counsel on behalf of Gore District Council in relation to Minute 18 Hearing Stream 9, 29 November 2024
 - (v) Section 32AA report of Mishak Banhidi on behalf of Gore District Council, 29 November 2024.
 - (b) The relevant sections of the Proposed District Plan (**PDP**) which contain provisions relating to 'natural character', undated but estimated to be August 2023.

- (c) Southland Federated Farmers Submission to the PDP, dated 27 November 2023, and Further Submissions to submissions on the PDP, dated 28 February 2024.
 - (d) The Southland District Council Submission (Submitter number 146), and the Environment Southland Submission (Submitter number 85).
 - (e) The New Zealand Transport Agency Waka Kotahi Submission and Further Submission (Submitter number 112 and Further Submitter number 14).
 - (f) The Alliance Group Submission and Further Submission (Submitter number 121 and Further Submitter number 27).
 - (g) Relevant parts of the operative Southland Regional Policy Statement 2017 (**RPS**).
 - (h) Relevant parts of the Proposed Southland Land and Water Plan, Court version, May 2024 (**SWLP**).
 - (i) Relevant provisions of the Resource Management Act 1991 (**RMA**).
5. My evidence is developed in accordance with the Expert Witness Code of Conduct set out in section 9 the Environment Court's Practice Note 2023.

CONTEXT

- 6. Federated Farmers is a primary sector organisation with a long and proud history of representing the needs and interests of New Zealand farmers involved in a range of rural businesses.
- 7. Federated Farmers' members' primary production activities make a significant contribution to the economic, social, and cultural well-being of the region and New Zealand.
- 8. Federated Farmers key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:

- (a) members may operate their business in a fair and flexible commercial environment;
 - (b) members' families and their staff have access to services essential to the needs of the rural community; and
 - (c) members adopt responsible management and environmental practices.
9. Federated Farmers members want and need resource management plans and policies that balance environmental, cultural, social, and economic values while ensuring rules are equitable, cost-effective, pragmatic and effects based. They also want resource management plans and policies that are written in plain English; are easy to use and understand; acknowledge and reward the positive effects farming has on conservation; and recognise the importance of collaborating with communities to achieve desired environmental outcomes.

DIRECTION FROM MINUTE 18

10. Minute 18 records that the Hearings Panel reached the view that, in addition to including provisions relating to natural character throughout the PDP, there should also be a separate Natural Character chapter (NATC) that provides a strategic overview and link to those provisions. The Hearings Panel directed the Council's Reporting Officers' to draft an NATC to reflect their position.
11. The context for inclusion of this NATC is:
- (a) section 6(a) of the RMA requires "*the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development*"; and
 - (b) the National Planning Standards (NPS) require an NATC to be included if relevant; and
 - (c) it gives effect to the Southland Regional Policy Statement (RPS) Policy URB.1 which reads "*The adverse effects of urban*

development on the environment should be avoided, remedied or mitigated”, noting that the explanation to this policy identifies “loss of natural character” as an effect; and

- (d) Southland District Council (**SDC**) submitted that certain specific provisions relating to waterbodies that mention natural character might be better addressed in an NATC.

COMMENTS ON CREATING AN NATC THROUGH SUBMISSIONS

- 12. The proposed NATC contains an overview, an objective, and four policies. It does not contain any rules, with a note that the objective and policies apply to rules in other chapters.
- 13. In my opinion the development of an entire new chapter through submissions, where the proposed content has wider effect than the plan provisions as notified, is not good planning practise.
- 14. If the Council considers an NATC is necessary, and they seek to introduce provisions that apply more widely or differently than those in the notified plan, it would be preferable if the Council undertake engagement and consultation on the issue and then notify any necessary variation to the proposed plan change.
- 15. By notifying a variation concerning natural character, members of the public who did not submit on the natural character provisions spread across the PDP will have the opportunity to make submissions on the proposed new provisions. It should not be presumed that no additional persons would want to comment on the new provisions and the impact they may have on their organisation, industry and / or sector.

Overriding direction on natural character

- 16. In preparing their PDP, the Council has had ample opportunity to consider alignment with the requirements of s6(a) of the RMA and the NPS prior to its notification. The Council, as part of its early plan development would have had to engage with other local authorities such as Environment Southland and Southland District Council. In notifying its PDP without an NATC, it appears the Council has either

previously concluded it is not relevant or has failed to give it due consideration in consultation with other local authorities.

17. The Southland RPS provides specific direction as to natural character in the coastal environment,¹ and for freshwater². It has policies identifying that the regional council will address the natural character of waterbodies in relation to instream structures and gravel management³. The Hearings Panel have only identified the need to give effect to Policy URB.1, which requires management of adverse effects - as fundamentally directed by the RMA - while specifically relating to the urban environment. The Panel also noted the RPS definition of natural character.
18. Of potentially greater relevance is how the RPS addresses natural features and landscapes⁴. It includes Method LNF.9 which states that local authorities will be encouraged to address locally distinctive and valued natural features and landscapes, which may include natural character (along with other values). The principal reasons for adopting the various landscape provisions, is to recognise and provide for the requirements of s6(a) of the RMA. This appears to be the most relevant RPS provision for natural character outside of the coastal and instream freshwater environments.
19. The RPS does not identify adverse effects on natural character due to activities in riparian margins or on the surface of water as a regionally significant issue. It also does not set out how the connection and responsibilities between rivers and their margins (and therefore the functions of the regional council and territorial authorities) might be addressed.
20. Environment Southland did not submit on the matter of natural character, and they did not make any further submission.

¹ Southland RPS 2017, Chapter 7.

² Ibid, Chapter 4.

³ Ibid, Policies BRL.1 and BRL.3.

⁴ Ibid, Chapter 10.

Scope to include a new NATC

21. The Council considers that there is scope to include an NATC in the PDP based on the SDC submission (submitter number 146), as they reportedly requested “*any provisions relating to natural character of rivers be located in a natural character specific chapter*”⁵ (my emphasis). More accurately, they requested:
- (a) In relation to Natural Landscapes and Features:
 - (i) **NFL-P2:** “*This policy should be placed in the Natural Character chapter, and have a specific objective for restoration and/or enhancement to fully support the policy*”, and
 - (ii) **Appendix 5:** “*Provisions related to this Mataura River area within the Gore District should be addressed in a Natural Character section*”; and
 - (b) In relation to Activities on the Surface of Water (policies ASW-P2, ASW-P4(1) and ASW-P5(1)(a)) they requested “*Consider placing [this policy] in a NATC – Natural Character chapter or supported in such a chapter*”.
 - (c) SDC did not request any consequential amendments.
22. The S32AA report discusses scope, and it identifies submissions from the New Zealand Transport Agency Waka Kotahi and Alliance Group relating “*to natural character and providing additional scope for this chapter*”⁶. Both submission points were specifically in relation to ‘Appendix 5 – Landscape Values-ONL-APP’, which not only identifies the values of the Hokonui / Waterfall Range ONL and the Te Au Nui Pihapiha Kanakana Matarua Falls ONF, but also identifies the Mata-Ura / Mataura River as a High Natural Character Feature (HNCF). This

⁵ S32AA report, para 9.

⁶ Ibid, para 10.

appears to have caused confusion given there is no other reference within the PDP to any HNCF⁷.

23. In my opinion, these submissions provide limited scope for an NATC. As currently drafted, provisions in this chapter appear to apply more widely than to those submitted on by SDC, and more widely than those identifying natural character as a matter of discretion. As noted in Paragraphs 13 to 15, I believe it would be better practice to more widely consider and consult on natural character, and notify any new chapter as a Variation.

Submitter scope to provide evidence on a new proposed NATC

24. In the Memorandum of Counsel, counsel advise the Hearing Panel that while this chapter has been widely circulated to submitters, it *“does not mean that Council considers each of these parties will have standing or scope to seek changes to the natural character provisions or the draft new Natural Character chapter. Rather it will be for each submitter attending the hearing to speak on this topic to be able to point to any basis for any amendments they are seeking from their original submissions as appropriate”*.
25. While Federated Farmers submitted on some of the provisions where consideration of natural character is identified, it was not in relation to the matter of natural character. The inclusion of natural character in the context of each individual provision seemed appropriate.
26. In my opinion, a new overarching chapter with specific objectives and policies for natural character that are not linked to the natural character provisions as notified in the PDP, has the potential to have a wider effect than could be anticipated by the SDC submission.
27. If the proposed NATC was notified in the PDP, it is likely that Federated Farmers would have submitted on it. However, it was not notified so we did not have the opportunity do so. As this chapter as drafted could materially impact our members, I request that should the Hearings

⁷ Although the S42A Natural Features and Landscapes report, at para 385 recommends removing reference to the HNCF ‘throughout’ the plan.

Panel decide to continue to develop a Natural Character process without notifying a variation, they consider my planning evidence.

RELIEF SOUGHT

28. My preferred relief is that the Council withdraw the NATC – relying instead on the current plan drafting for natural character – and undertake further engagement, consultation and development regarding natural character.
29. The alternative relief I seek is that Council makes changes to address our concerns with the new proposed NATC, as detailed in Appendix 1.

Appendix 1:

Amendments to the proposed NATC and Appendix 6

Overview section

1. The focus of this chapter is the natural character of waterbodies, which is consistent with s6(a) of the RMA. It is unclear how the chapter gives effect to Southland RPS policy URB.1, which has a focus on 'urban' development. As drafted, the proposed provisions appear to apply to any type of development.
2. The overview states "*Natural character is generally described as an area or waterbody's distinctive combination of natural characteristics and qualities...*"¹. In my opinion it would be preferable to amend this statement to limit natural character as applying to the waterbody and its margins, and not an 'area' of land in general, as currently drafted.
3. The S42A report writer has not recommended inclusion of a definition for 'natural character'. Neither the RMA nor NPS defines this, but the RPS does. The PDP must give effect to the RPS so should include this definition. However, I note the RPS definition includes cultural values, which is inconsistent with the statement in proposed Appendix 6², being:

"Natural character assessment is narrower in scope than assessment of landscape values, which also includes consideration of cultural values. It is an outcome of physical environment and perception and is concerned only with natural characteristics and qualities".
4. I support limiting a natural character assessment to only natural characteristics and qualities, however the PDP needs to explain the divergence from the RPS and the reasons for it. I consider this oversight highlights the benefit of the Council undertaking further

¹ Minute 18 Appendix 1: NATC, Overview, second paragraph.

² Minute 18 Appendix 2: Recommended Appendix 6, pg 1. Sourced from Minute 18 Appendix 3: Supplementary Evidence, paragraph 11.

consideration and consultation on natural character, including engaging with Environment Southland.

5. It would also be useful to clearly define the extent of a riparian margin. The overview states:

“The riparian margin contributes significantly to the natural character of a river or stream and is also to be preserved and protected. The extent of the margin associated with a river or waterbody depends on the attributes and context of the river, topography and other factors, it is influenced by the size of the waterbody, the topography of the area, and the surrounding land use. For the purposes of this Plan the River and Stream order as outlined in Appendix 3, has been used to determine river setback standards [included within the zone and district wide matters chapters as standards] that are broadly reflective of the extent of river margins for the different waterbodies present in the district”³.

6. In my opinion, it would be helpful to clearly identify those margins, preferably as policy. The current approach of the PDP has proposed 20m for high order rivers, 10m for middle order rivers and 5m for low order rivers. As currently worded, the policies refer to ‘*in close proximity*’ to rivers, which in my opinion is uncertain and subjective. It also introduces a high level of uncertainty into the PDP which is concerning.
7. The overview states “*Activities that can erode the natural character values of waterbodies include buildings and structures, earthworks, indigenous vegetation removal, mineral extraction, and motorised activities on the surface of the water*”⁴. This appears to be taken from the Landscape Architect’s evidence⁵, but is missing other activities he identified that can affect natural character, being exotic tree planting, activities that alter natural water quantity, and discharges impacting water quality (noting the latter is a regional council matter).

³ Minute 18 Appendix 1: NATC, Overview, fourth paragraph

⁴ Ibid, Overview, fifth paragraph.

⁵ Minute 18 Appendix 3: Supplementary Evidence, paragraph 28

8. It is helpful to identify the activities that affect natural character, and those which the Council is responsible for. However, in terms of scope to create this NATC, I consider that any objectives or policies should be limited to those activities for which restrictions have already been proposed through rules or standards. I discuss this further below.
9. I support inclusion of a paragraph that describes the different roles and responsibilities of the Council and the regional council in managing natural character.

General comments on draft provisions

10. The S32AA report writer states the four policies “*are the same as the notified NFL policies, with the exception that direction not relevant to natural character has been removed*”⁶. This comment concerns me because it indicates that natural character as it applies to landscapes has been applied to waterbodies and their margins without careful consideration of the Council’s objective in creating a NATC, the matters unique to waterbody management, and how the PDP currently addresses natural character, including beyond the NFL chapter.
11. The provisions are written to apply to every waterbody no matter the size, prominence, priority or existing degree or form of natural character. This is because the Landscape Architect’s considers that s6(a) of the RMA entails a broader duty to preserve the level of natural character that exists, whether outstanding, high, or significantly modified⁷.
12. The preservation of the natural character of waterbodies and their margins, is a matter of national importance, and the Council has duty to protect them from inappropriate subdivision, use and development (my emphasis).
13. As currently drafted, the Natural Character provisions do not clearly identify what is inappropriate subdivision, land use or development.

⁶ S32AA report, para 19.

⁷ Minute 18 Appendix 3: Supplementary Evidence, paragraph 14

Alternatively, they also do not identify what is considered as 'appropriate' subdivision, land use or development.

14. The Landscape Architect's evidence notes only the main stem of the Mataura River is identified in the PDP as a feature for particular management of natural character⁸, before concluding "*that natural character management in the PDP needs to be broader and to apply to all rivers and streams*"⁹. This appears to be a significant departure from the PDP as notified.
15. Other reasonably practicable options for achieving the Council's objective have not been presented in the S32AA report, for example Identifying waterbodies with the greatest natural character values that require protection. In my opinion the value of imposing natural character requirements on all waterbodies, and in particular 'low order rivers' requires in-depth consideration and data gathering to support the imposition of new natural character values which have not been through a Schedule 1, RMA process.
16. The proposed provisions refer to '*rivers*' and '*streams*', and some provisions only include '*rivers*' and not '*streams*'. Despite this distinction, and a plan definition of '*stream*', every stream is by definition a river under s2 of the RMA, so if the intent is to exclude smaller waterbodies, '*streams*' would need to be expressly excluded from the provision. However, it is presumed unlikely this is the case given the recommendations of the Landscape Architect.

NATC-O1

17. This objective effectively states the requirements of s6(a) of the RMA, other than to suggest by omission, that the Gore District has no wetlands (and therefore margins), or wetlands whose natural character requires protection.

⁸ Minute 18 Appendix 3: Supplementary Evidence, paragraph 15

⁹ Minute 18 Appendix 3: Supplementary Evidence, paragraph 12-18

NATC-P1 – a policy to avoid or mitigate adverse effects¹⁰

18. NATC-P1 appropriately recognises the role of the Council is limited to controlling land use or activities in ‘close proximity’ to rivers.
19. The first part of policy NATC-P1 is drafted as an ‘avoid’ policy and there are no exceptions provided. It applies to all streams, no matter their size.
20. None of the provisions for natural character in the notified PDP expressly prohibit or seek the avoidance of adverse effects on natural character.¹¹ In general, they seek the management of adverse effects. In my opinion, NATC-P1 should be redrafted to reflect this.
21. Clause (1) requires development and land use with significant adverse effects to be avoided, along with any other adverse effects – however, these may also be mitigated. As drafted, it is unclear which types of adverse effects must be avoided, and when mitigation might be appropriate. The policy does not address subdivision.
22. Clause (2) of the policy expressly refers to the activities of mineral extraction and indigenous vegetation removal. These references should be removed as there is currently no provision for natural character in the notified PDP in relation to these activities (i.e., in the EW or ECO chapters). Clause (2) should be redrafted to clearly align with rules in the PDP.
23. The S32AA report writer provides some explanation of activities that can affect natural character, and their rules. For example, indigenous vegetation clearance, which is otherwise restricted by rule ECO-R1¹². While this may be the case, there is not a clear link to natural character in that rule – natural character is not identified as a matter of discretion where compliance with the permitted activity rule is not achieved.

¹⁰ Minute 18, Appendix 3 Supplementary Evidence, para 29(2)

¹¹ The closest is PA-P5, which is to “*restrict public access in areas that would result in adverse effects on natural character...*”. There are no associated rules in the Public Access Chapter.

¹² S32AA report, para 22.

24. Clause (2) also refers to activities in '*close proximity*' to a river and their margins. This should be amended to refer to the setback distances currently established in various performance standards throughout the plan.
25. Overall, I would prefer the policy be substantially redrafted to address the issues I have raised, and to align with approaches and rules already proposed in the PDP.

NATC-P2 – a policy to encourage restoration¹³

26. This policy encourages restoration or enhancement of natural character in certain situations, including where it will support indigenous biodiversity and angling fishing species (clause 2), taonga species (clause 3) and habitat (clause 5). It also encourages restoration or enhancement of natural character to achieve long-term improvements in natural character (clause 1), and to buffer activities that may adversely affect natural character of the river.
27. In my opinion, this policy would be more helpful if it provided some context as to what 'natural character' is in relation to Council functions, and what might be restored or enhanced, rather than adding another policy for matters already provide for in other chapters (i.e., clauses 2, 3 and 5). For example, the policy might highlight the relevant important features contributing to natural character on the margins (e.g., as proposed for inclusion in Appendix 6).
28. Federated Farmers submitted on the protection of angling fishing species as proposed in policy NFL-P2 relating to the Te Au Nui Pihapiha Kanakana Mataura Falls ONF. The S42A report for the Natural Features and Landscapes chapter notes its inclusion in NFL-P2 is due to the Water Conservation Order for the Mataura River¹⁴.
29. NATC-P2 applies more widely. If the Hearings Panel consider sport fishing to be relevant to natural character and intends to retain clause (2), I recommend amending the '*restoration of... angling fisheries*

¹³ ¹³ Minute 18, Appendix 3 Supplementary Evidence, para 29(3)

¹⁴ S42A report Hearing Stream 9, NFL Chapter, para 213

species' to focus on habitat, consistent with RMA s7(h), and to limit its application to the protected waters under the Water Conservation Order.

30. Overall, it is unclear how the plan otherwise gives effect to NATC-P2. If there are more permissive rules allowing planting, or any other activity that restores or enhances natural character, it would be beneficial to identify them. The S42A report writer states the intent of the policy is to provide guidance on resource consent assessments¹⁵. If there are no such provisions, I would prefer this policy be deleted.
31. The alternative relief I seek is that this policy be simplified to “*To encourage the restoration and/or enhancement of the natural character of rivers, streams and their margins*”.

NATC-P3 – a policy on critical infrastructure

32. This policy seeks to avoid placing critical infrastructure in rivers and their margins unless there is no reasonable alternative, and adverse effects are avoided or mitigated. Instream structures are controlled by the regional council, and policy should be limited to the margins of rivers.
33. The S32AA report writer states this policy is intended to replicate NFL-P3 and Policy 8 of the National Policy Statement on Electricity Transmission 2008 (**NPS-ET**)¹⁶.
34. There are currently no rules in the PDP as notified that prohibit infrastructure in river margins. In the notified Infrastructure Chapter, natural character is only identified in INFR-S5, which provides minimum setbacks from waterbodies, and identifies natural character as a matter of discretion when setbacks are not achieved.
35. Overall, I do not consider NATC-P3 adds particular value so I would prefer it be deleted. The overall intent of NATC-P3 could be captured in a redrafted NATC-P1.

¹⁵ Minute 18... S32AA para 21.

¹⁶ S32AA report, para 22.

NATC-P4

36. This policy provides guidance as to assessing effects on natural character during consenting, for activities in 'close proximity' to river margins¹⁷. This should be amended to refer to the setback distances currently established in various performance standards throughout the plan.
37. I would also prefer that this policy was amended to clearly identify the activities that the PDP has otherwise identified as having the potential to impact the natural character of waterbodies.
38. I do not believe this policy provides useful value or direction to assist those processing consents, beyond the requirements of the RMA, although it does provide a use for new Appendix 6.
39. NATC-4 and Appendix 6 raise concerns for me about what a natural character assessment entails, and who is qualified to undertake such an assessment. If a professional assessment of some form will be required, then an analysis of the cost and benefit of requiring such an assessment should be undertaken.
40. I would prefer NATC-P4 be deleted.

Appendix 6 – NATC-APP

41. Appendix 6 contains an entirely new and broad set of criteria that outlines the qualities and criteria that contribute to natural character, and the attributes that should be preserved.
42. This includes criteria that apply primarily to the river itself, noting that the regional council is responsible for managing river beds, river banks, freshwater and discharges.
43. The Proposed Southland Water and Land Plan (SLWP) has objectives, policies and rules relating to natural character. Other than a broad definition for 'natural character values', the SLWP does not otherwise establish criteria in a similar manner to Appendix 6.

¹⁷ S32AA report, para 23.

44. In my opinion, the Council would benefit from engaging with Environment Southland to agree a suitable approach for managing the natural character of waterbodies and their margins, to improve alignment and avoid duplication or conflict.
45. If matters like water quality and quantity are to remain as matters that contribute to natural character, I consider the Appendix would benefit from clarification that these are regional council concerns, with a description of how they will be used by this Council in determining what is appropriate development in relation to natural character in the riparian margin.
46. However, I consider Appendix 6 is unnecessary. I believe that it is helpful to identify both characteristics and qualities that contribute to natural character, and the natural character attributes that should be preserved, but I would prefer these be stated as policy.
47. If these matters were included as policy, Appendix 6 would contain only an 'Example natural character description' for the Mata-Ura / Mataura River. In my opinion this is not necessary to include such an example in the PDP and it could instead be developed as a guidance document outside of the District Plan.