

IN THE MATTER OF

Resource Management Act 1991

AND

IN THE MATTER OF

the hearing of submissions in relation to the
Proposed Timaru District Plan

MEMORANDUM OF COUNSEL FOR FOREST & BIRD IN RESPONSE TO PANEL'S
REQUEST FOR INFORMATION

Dated 4 December 2024

INTRODUCTION

1. In its Minute 19, dated 21 November 2024, the Hearing Panel has requested further information from Forest & Bird on the following points relating to its submission:
 - (a) In 156.22, why is 'nonvascular plants' replaced by 'mosses and/or lichens or fungi'? Are these the only nonvascular plants in NZ?
 - (b) Provide alternative drafting to NATC-R3 PER-3 which permits earthworks for a 3m wide track, which Forest & Bird considers too permissive.

NONVASCULAR PLANTS

2. The definition for indigenous vegetation suggested in Forest & Bird's submission was as follows:

means a community of vascular ~~and non-vascular~~ plants, mosses and/or lichens or fungi that ~~in relation to a particular area, are native to the~~ includes species native to the ecological district, ~~in which that area is located.~~ The community may include exotic species.
3. This proposed definition replicates the definition of indigenous vegetation contained in the Mackenzie District Plan. As stated in the submission, the main purpose of the suggestion was:

“... to include a reference to the presence of exotic species given that they are ubiquitous in almost all native plant communities throughout New Zealand. This is particularly relevant in the high country as it relates to the common on the definition of improved pasture.”

4. Counsel’s understanding is that nonvascular plants can also include some algae which are an important component of indigenous ecosystems. The intention of Forest & Bird’s submission was not to exclude algae from the definition. Forest & Bird would be happy for the definition to continue to refer to “non-vascular plants”, together with wording referring to a community of plants that may include exotic species, as follows:

means a community of vascular and non-vascular-plants, that ~~in relation to a particular area, are native to the~~ includes species native to the ecological district, ~~in which that area is located.~~ The community may include exotic species.

NATC-R3 PER-3

5. NATC-R3 applies to earthworks within the riparian margins of a river not identified in the plan as a High Naturalness Water Body (HNWB). Permitted activity rule PER-3 would allow earthworks that are required to construct a new track up to 3m in width.

6. Forest & Bird’s submission relating to NATC-R3 PER-3 was that:

Per-3 is too wide, there would be instances where 3 meters would incorporate the entire margin.

The submission asked for PER-3 to be deleted.

7. One alternative to deletion could be to include a spatial limit which relates to the width of the margin in which the activity is to occur (as requested in Forest & Bird’s submission in respect of PER1 and PER2). For example:

The earthworks are required to construct a new track no wider than 20% of the width of the margin, or 2m in width, whichever is the lesser.

Counsel acknowledges that there does not appear to be an evidential basis for deciding on an appropriate % figure or width. As above, the underlying concern is that riparian margins should not become dominated by new tracks, to the exclusion of riparian vegetation and habitat.

8. Another alternative to deletion could be to specify permitted purposes for constructing and using a track. For example:

The earthworks are required to construct a new track no more than 2m in width, only for the use of walkers and bicycles.

9. The rationale for such a restriction would be that tracks for the use of walkers and bicycles are likely to be lower impact in terms of earthworks, construction materials, and edge effects.
10. Thank you for the opportunity to clarify these submission points, counsel hopes that this memorandum is helpful for the Panel.



Tim Williams

Counsel for Forest and Bird