

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU

Decision [2024] NZEnvC 141

IN THE MATTER OF an appeal under clause 14 of the First
Schedule of the Resource Management
Act 1991

BETWEEN VAN DEN BRINK GROUP
(ENV-2022-AKL-000083)

Appellant

AND WAIKATO DISTRICT COUNCIL
Respondent

Court: Alternate Environment Judge L J Newhook sitting alone under s
279 of the Act

Last case event: 10 June 2024

Date of Order: 20 June 2024

Date of Issue: 20 June 2024

CONSENT ORDER

A: Under section 279(1)(b) of the Resource Management Act 1991, the
Environment Court, by consent, orders that:

- (1) Rule COMZ-S7 in the Commercial Zone chapter of the PDP decisions
version be amended as set out within **Appendix 1** to this order
(additions marked as underlined and deletions as ~~struck through~~);



(2) the appeal is otherwise resolved.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This consent determination relates to an appeal by Van Den Brink Group Limited (**Appellant**) against the decisions of Waikato District Council (**Respondent** or **Council**) on the Proposed Waikato District Plan (**PDP**) in relation to the minimum building setbacks from rivers (excluding the Waikato River and Waipa River) in the Commercial zone (**COMZ**).

Background

[2] The original submission by the Appellant opposed COMZ-S6¹ relating to building setbacks from other zone boundaries. The equivalent notified rule provided that a building is a permitted activity if it is setback at least 7.5m from rear and side boundaries in the identified zones. The Appellant's submission sought to reduce the setback to 3m.

[3] Council submitted on a related rule, being COMZ-S7² which relates to building setbacks from waterbodies.³ Council sought a consistent setback for the waterbody rule across all zones. In the notified PDP such rules were duplicated in each zone rather than being in a district wide chapter as now required by the National Planning Standards (**NPS**). Council sought to achieve consistency by applying the same methodology to all waterbody rules based on a 20m esplanade reserve plus the zone-specific yard setback as identified in the building setback - zone boundary rule (COMZ-S6). In relation to the specific waterbody setback under appeal, from any river other than the Waikato River and Waipa River in the COMZ, the Council sought

¹ Notified rule P1 17.3.4.1(a)(i) in the Business zone. The Commercial zone is the nearest equivalent to the Business zone in the National Planning Standards.

² Notified rule P1 17.3.4.2 in the Business zone.

³ Submission Point 403 of the Waikato District Council.

to amend COMZ-S7 to increase the minimum building setback from this waterbody from 23m to 27.5m (being 20m plus 7.5m) to be consistent with the notified 7.5m zone boundary setback in COMZ-S6.

[4] In Decision Report 20: Business Zones, the Independent Hearing Panel (**IHP**) accepted both submissions. It reduced the zone boundary setback in COMZ-S6(a)(i) to 3m as requested by the Appellant and increased the waterbody setback in COMZ-S7(a)(iii) to 27.5m as requested by the Council.⁴ No explicit reasoning was provided by the IHP for these decisions, however the decision report states that if a matter is not discussed in the report, the IHP adopts the reasoning set out in the s42A report.⁵ The section 42A report for Hearing 9: Business Zones provided the following reasoning for recommending that both submissions be accepted:

- (a) In relation to the Appellant's submission regarding zone boundary building setbacks, it was noted that the setback required in adjoining zones ranges from 12m for the Country Living zone, to 1.5m for the Village and Residential zones. On this basis the 7.5m setback for the COMZ was considered excessive and thus the report author recommended it be reduced to 3m;⁶ and
- (b) In relation to Council's submission regarding water body building setbacks, the s42A report author supported the amendment, noting that it would align the PDP rules with the esplanade requirements and provide for the protection of natural character.⁷

Appeal

[5] The Appellant subsequently filed this appeal seeking, amongst other amendments, that COMZ-S7 in the COMZ chapter of the PDP decisions version be amended so that building setbacks from riverbanks (excluding the Waikato River and Waipa River) be reduced to a minimum of 10m.

⁴ See amendments in Decision Report 20: Business Zones, at page 95.

⁵ Ibid, at [5.1].

⁶ Section 42A Report – Hearing 9: Business and Business Town Centre Zones at [424].

⁷ Ibid, at [426] and [430].

[6] The Appellant’s original submission pertained to the zone boundary setbacks in COMZ-S6 and sought to reduce the setback between sites with other zones from 7.5m to 3m. The setback for the particular waterbody under appeal is determined by a 20m esplanade reserve plus the zone-specific setback in COMZ-S7. Therefore, it is acknowledged that reducing the zone setback in COMZ-S6 by 4.5m has the consequence of altering the waterbody setback in COMZ-S7 by the same reduction. Accordingly, the parties agree there is scope to reduce the waterbody setback for rivers other than the Waikato River and Waipa River from 27.5m to 23m.

[7] This part of the appeal has been assigned to Topic 15: Land use provisions – other zones and this consent order resolves the appeal entirely. The balance of the Appellant’s appeal has already been settled via an earlier consent order.⁸

[8] There are no parties to this appeal under s 274 of the Act.

Agreement reached between the parties

[9] Following Court-assisted mediation on 21 May 2024, the Appellant and Council have reached an agreement which will fully resolve the Appeal.

[10] The parties agree to amend COMZ-S7(a)(iii) so the building setback from the bank of any river other than the Waikato and Waipa River is 23m rather than 27.5m as follows:

COMZ-S7	Building setback – waterbodies	
	<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) A building that is set back at a minimum of:</p> <p style="padding-left: 20px;">(i) 27.5m from the margin of any lake;</p> <p style="padding-left: 20px;">(ii) 27.5m from the margin of any wetland;</p>	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council’s discretion is restricted to the following matters:</p> <p>(a) Effects on the landscape, ecological, cultural and recreational values of the adjacent water body;</p> <p>(b) Adequacy of erosion and sediment control measures;</p>

⁸ [2024] NZEnvC 065.

<ul style="list-style-type: none"> (iii) 27.5 23m from the bank of any river (other than the Waikato River and Waipa River); (iv) 32.5m from the margin of either the Waikato River and the Waipa River; (v) 27.5m from mean high water springs; (vi) 10m from any artificial wetland; (b) A public amenity of up to 25m² or pump shed (private or public) within any building setback identified in Standard COMZ-S7(1)(a); (c) COMZ-S7(1)(a) does not apply to a structure which is not a building. 	<ul style="list-style-type: none"> (c) The functional or operational need for the building to be located close to the waterbody; (d) Effects on public access to the waterbody; (e) Effects on the amenity of the locality; and (f) Effects on natural character values.
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Section 32AA analysis

[11] Section 32AA of the Act requires a further evaluation of any changes to the proposed plan change since the initial s 32 evaluation report and the Decision. Council has prepared a stand-alone s 32AA evaluation, which is included in **Appendix 2** to this order.

[12] In summary, the s 32AA assessment concludes that:

- (a) The scale and significance of the proposed amendment to the COMZ chapter are low, given:
 - (i) It will, in conjunction with applicable national regulations, regional and district rules, enable the efficient use and development of natural and physical resources;
 - (ii) Relative to the Decisions Version of the PDP, the proposed amendment amounts to a minor amendment by reducing the setback distance for buildings from the banks of any rivers (other than the Waikato and Waipa rivers) by 4.5m;
 - (iii) The proposed amendment has a confined spatial impact as it will only affect commercially zoned land in proximity to rivers other

than the Waikato and Waipa rivers. This would currently apply to only three sites across the district;

- (iv) The proposed amendment will safeguard the amenity and character of the area, enable public access and safeguard water quality while also enabling development and use of the affected sites;
- (b) The objective of the proposed amendment is to better enable the development and use of commercial-zoned sites in proximity to rivers in the district (excluding the Waipa and Waikato rivers), while effectively managing any adverse effects on amenity, natural character, access, and water quality of the adjoining river. It is considered this is the most appropriate way to achieve the purpose of the RMA on the following basis;
- (i) The proposed amendment constitutes sustainable management of natural and physical resources and enables development of commercially zoned sites to meet the needs of future generations while also safeguarding the water quality of the rivers in accordance with ss 5(1) and (2) of the RMA;
 - (ii) The reduced setback will preserve the natural character of the rivers by pulling back development from the rivers while ensuring there is sufficient room to provide public access to the rivers in accordance with s 6 of the RMA;
 - (iii) The proposed amendment will enable the efficient use and development of the land while still maintaining the amenity and quality of the rivers in accordance with s 7 of the RMA;
- (c) The proposed amendment is considered the most appropriate method for achieving the objectives of the COMZ and other related objectives in the decisions version of the PDP for the following reasons;

- (i) It provides a consistent approach across most zones which will aid the Council with carrying out its functions under s 31 of the RMA;
 - (ii) The proposed amendment will enable the efficient and effective use of commercially zoned land next to waterbodies (other than the Waipa and Waikato Rivers) which will support the district's economy and achieve strategic objective SD-O1. It will also achieve the natural character objective NATC-O1(2) that seeks to protect the natural character of rivers and their margins from inappropriate subdivision, use and development; and
- (d) Based on the analysis contained in the s 32AA evaluation, the parties consider that amending COMZ-S7 to reduce the minimum waterbody setbacks for rivers (excluding the Waikato River and Waipa River) to 23m across all of the COMZ is the most appropriate way to achieve the objectives of the PDP.

Consideration

[13] In making this order the Court has read and considered:

- (a) The notice of appeal dated 2 March 2022; and
- (b) The Joint Memorandum of parties dated 10 June 2024.

[14] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order; and
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[15] The Court is satisfied that the changes sought are within the scope of the Appellant's submission and appeal.

Order

[16] The Court orders, by consent, that:

- (a) Rule COMZ-S7 in the COMZ chapter of the PDP decisions version be amended as set out within **Appendix 1** to this order (additions marked as underlined and deletions as ~~striketrough~~);
- (b) The appeal is otherwise dismissed; and
- (c) There is no order as to costs.



L J Newhook
Alternate Environment Judge



Appendix 1: Tracked change version of the agreed amendments to COMZ-S7 in the COMZ chapter of the PDP decisions version

COMZ-S7	Building setbacks – waterbodies	
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) A building must be set back a minimum of: <ul style="list-style-type: none"> (i) 27.5m from the margin of any lake; (ii) 27.5m from the margin of any wetland; (iii) 27.5 <u>23</u>m from the bank of any river (other than the Waikato River and Waipa River); (iv) 32.5m from the margin of either the Waikato River and Waipa River; (v) 27.5m from mean high water springs; (vi) 10m from any artificial wetland; (b) A public amenity of up to 25m² or pump shed (private or public) within any building setback identified in COMZ-S7(1)(a); (c) COMZ-S7(1)(a) does not apply to a structure which is not a building. 	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council’s discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) Effects on the landscape, ecological, cultural and recreational values of the adjacent water body; (b) Adequacy of erosion and sediment control measures; (c) The functional or operational need for the building to be located close to the waterbody; (d) Effects on public access to the waterbody; (e) Effects on the amenity of the locality; and (f) Effects on natural character values. 	

Appendix 2: Section 32AA Assessment

Section 32AA assessment

Van den Brink (ENV-2022-AKL-000083) Appeal Point 1 Setback from Waterbodies in COMZ

INTRODUCTION

Overview

This s32AA evaluation report addresses relevant statutory tests under the Resource Management Act 1991 (**RMA**) as they relate to the appeal from Van den Brink (the Appellant) on the Proposed Waikato District Plan (**PDP**).

The initial appeal sought to amend the Commercial Zone provision *COMZ-S7 – Building Setback – waterbodies* to reduce the required setback standard from 27.5m to 10m. Waikato District Council (the Council) and the Appellant have since agreed that the setback should instead be reduced to 23m from the bank of any river (other than the Waikato and Waipa rivers).

This s32AA report is organised to firstly consider the scale and significance of the proposal, before addressing the following relevant tests:

- (a) The extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA;¹
- (b) Whether the relevant policies and methods are the most appropriate way to achieve the objectives, having regard to their efficiency and effectiveness² and taking into account:³
 - The benefits and costs of the proposed policies and methods; and
 - The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

Section 32AA(1)(a) specifies that a further evaluation is required “*only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes)*”. Section 32AA(3) defines “proposal” as meaning a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under the RMA.

¹ RMA, section 32(1)(a).

² Ibid, section 32(1)(b).

³ Section 32(2).

Scale and Significance of the Effects

Further evaluation reports of this nature are required by the RMA to be undertaken at a level of detail that corresponds to the scale and significance of the change proposed⁴. The change in this case is the reduction of the required building setback from the bank of any river (other than the Waikato River and Waipa River) to 23m from the 27.5m setback in the Decisions Version of the PDP.

The scale and significance of the proposed amendments have been assessed as **low** for the following reasons:

- the proposal addresses a relevant resource management issue relating to the Council's relevant RMA functions;
- the proposal, in combination with applicable national regulations, regional and district rules, will enable the efficient use and development of natural and physical resources;
- no matters of protection to life and property are directly relevant to the proposal;
- relative to the Decisions Version of the PDP, the proposal amounts to a minor amendment by reducing the setback distance for buildings from the banks of any rivers other than the Waikato and Waipa rivers;
- the proposal affects commercially zoned land in proximity to rivers (other than the Waikato and Waipa rivers) which currently applies to sites in three areas across the District, namely sites in Pookeno, Tuakau and Raglan and thus proposed amended has a confined spatial impact;
- there is no evidence to suggest that the proposal is of particular interest to iwi or the community as no s274 parties joined this appeal;
- the proposal is in response to the need to set back development back from the banks of rivers in the Commercial Zone (COMZ) to safeguard the amenity and character of the area, enable public access and safeguard water quality, while also enabling development and use of the commercially zoned sites in an efficient and sustainable manner;
- the proposal will not introduce any compliance costs or other financial impacts on third parties;
- there is a high level of information available to inform decision-making and a corresponding low risk of acting.

Consequently, a high-level evaluation of the proposal is appropriate for the purposes of this report.

⁴ Section 32AA(1)(c).

Evaluation of Objectives

Appropriateness in terms of the purpose of the RMA

The Council must evaluate, in accordance with s32 of the RMA, the extent to which each objective proposed is the most appropriate way to achieve the purpose of the RMA. Section 32 clarifies that “objectives” can mean the purpose of the proposal.⁵ In this case, the objective is to enable the development and use of commercial-zoned sites in proximity to rivers in the District (excluding the Waipa and Waikato rivers) while effectively managing any adverse effects on amenity, natural character, access, and water quality etc of the adjoining river.

Section 5

The proposal constitutes sustainable management of natural and physical resources in accordance with s5(1) of the RMA as it safeguards the amenity, natural character, ability to provide access to and protect the water quality of rivers in the District while also enabling efficient and effective use of existing commercial sites in accordance with s5(2) of the RMA.

By providing for a 23m setback from rivers (other than the Waikato and Waipa rivers), the proposal enables development of commercially zoned sites to meet the needs of future generations in accordance with s5(2)(a) of the RMA, while also safeguarding the water quality of the rivers and thus their life-supporting capacity in line with s5(2)(b). The setback will provide the opportunity to avoid, remedy or mitigate any adverse effects on the environment in accordance with s5(2)(c).

Section 6

The reduced setback of 23m from rivers in the District (other than the Waikato and Waipa rivers) will help to achieve the purpose of the RMA under s6(a) by preserving the natural character of those rivers and their margins by pulling development back from the rivers.

The reduced setback will still ensure there is sufficient room to provide public access to and along rivers in accordance with s6(d) where this is appropriate.

Section 7

The most relevant section 7 matters are discussed below.

Section 7(b): the efficient use and development of natural and physical resources

⁵ RMA s32(6)

The proposed setback will enable the efficient use and development of the existing (and any future) commercially zoned land near rivers.

Section 7(c): the maintenance and enhancement of amenity values

One purpose of the setback is to maintain and enhance the amenity of the rivers, as alluded to in the matters of discretion for non-compliance with COMZ-S7. Setting development back from the riverbanks will maintain and enhance amenity values of the river. The reduced setback will still ensure that amenity values of rivers and their margins are maintained and enhanced.

Section 7(f): maintenance and enhancement of the quality of the environment

The purpose of the setback is to pull development back from the banks of the rivers in the Commercial zone to maintain and enhance the quality of the environment around the rivers. The reduced setback will still maintain and enhance the quality of the environment, including protection of the water quality by ensuring stormwater and any runoff from buildings does not directly enter the river.

Section 8 RMA

Section 8 has limited relevance to the proposal. However, maintaining an appropriate setback between buildings and the river margins will help to preserve the mauri of the rivers.

Having assessed the objectives of the proposed amendment against Part 2 of the RMA, it is considered that this amendment is the most appropriate way to achieve the purpose of the RMA. The 4.5m reduction in setback will still achieve Part 2 of the RMA as the reduced setback will:

- Continue to enable the preservation of the amenities and character of the rivers;
- Protect the water quality;
- Enable efficient and effective use of any commercial sites that adjoin rivers; and
- Provide sufficient space to enable access to the rivers where this is appropriate.

Evaluation of the Provisions

Section 32 assessments must determine whether the proposed provisions are the most appropriate way to achieve the objectives. This must include the identification of alternatives, and cost benefit analysis of the economic, social, environmental and cultural effects of the provisions including whether opportunities for economic growth and employment are reduced or increased. The risk of acting or not acting where uncertain information exists must also be considered.

The proposal requires one discrete amendment to the PDP, which is the replacement of the reference to the 27.5m setback with 23m setback.

The following broad options have been identified:

Option 1 – PDP Decisions Version: Retain the setback distance of 27.5m from rivers in the Commercial Zone (apart from the Waikato and Waipa rivers) as contained in the Decisions Version.

Option 2 – Reduce the setbacks from rivers in the Commercial Zone: This option would reduce the setback distance from rivers (other than the Waikato and Waipa rivers) in the Commercial Zone from 27.5m to 23m.

The preferred option is Option 2 because:

- (c) Careful consideration has been given to both the impacts of the setback on the ability to use and develop commercial land adjoining rivers as well as the protection of the amenity of these rivers and their surrounding environment, their water quality, their natural character, and safeguarding opportunities for public access.
- (d) The integrity of the District Plan is important to the Council, and a consistent approach across the zones aids the Council with carrying out its functions under s31.
- (e) The Council submitted on the notified PDP seeking consistency for the waterbody setback rule across all zones. It sought to achieve consistency by applying the esplanade reserve setback of 20m plus the zone-specific yard setback.
- (f) The appeal is limited to the waterbody setback in the Commercial Zone. The methodology applied to the waterbody setback in that zone is in accordance with the Council's submission (being 20m esplanade plus zone specific setback).
- (g) In its decision report for the Commercial Zone, the hearing panel reduced the zone-specific setbacks in all three zones from 7.5m to 3m. However, this consequential change was not reflected in the setbacks from waterbodies for the Commercial Zone.
- (h) In the interest in consistency with the method used in most zones across the District, Council supports a reduced waterbody setback of 23m in the Commercial Zone.
- (i) The reduced setback still enables a 20m esplanade reserve to be provided in accordance with s230 of the RMA upon subdivision.
- (j) The reduced setback will manage the adverse amenity effects on the rivers and future-proof opportunities for the future vesting of esplanade reserves across the district.
- (k) The proposed amendment to the waterbody setback provision in the Commercial Zone aims to enable efficient and effective use of commercially zoned land next to waterbodies

which will support the District's economy and achieve the strategic objective SD-O1. The proposed amendment also achieves the Natural Character objective NATC-O1(2) that seeks to protect the natural character of rivers and their margins from inappropriate subdivision, use and development.

	Benefits	Costs
Environmental	<p>The proposed setback distance of 23m will continue to protect the amenities of the rivers and their margins from development, safeguard their natural character, provide sufficient space to implement erosion and sedimentation control measures and thus protect the water quality.</p>	<p>The proposed amendment reverts back to the setback distance that was in the notified version of the PDP, and thus no additional costs will occur to anyone who did not appeal the decision.</p> <p>The proposal will not result in any additional costs for any landowners</p>
Economic	<p>The reduction of the setback distance required in the Commercial Zone from rivers will enable more of the affected sites to be used and developed without having to apply for resource consent as a restricted discretionary activity.</p> <p>This will in turn provide more certainty to landowners and reduce their costs and risks associated with securing resource consents.</p>	<p>There are no economic costs.</p>
Social	<p>The setback of 23m will still be sufficient for an esplanade reserve to enable public access upon future subdivision.</p> <p>The 23m setback will be sufficient to enable public access to the rivers where appropriate.</p>	<p>There is no social cost as provision for establishment of esplanade reserves remains.</p>

Cultural	There are no specific cultural benefits associated with the proposed amendments.	There are no specific cultural costs associated with the proposed amendments.
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Opportunities for economic growth:

The proposed amendment to the waterbody setback distance from 27.5m to 23m (for waterbodies other than the Waikato and Waipa Rivers) will enable landowners to use more of their commercially zoned land as a permitted activity without having to apply for resource consent. This will provide certainty, reduce costs, and reduce constraints on economic growth somewhat.

Opportunities for employment:

Being able to develop and use an increased proportion of Commercial zoned sites near rivers as a permitted activity might have some minimal positive effects on employment numbers.

Certainty and sufficiency of information:

The proposal has been subject to an appropriate level of investigation as to the effects of the amended provisions, and there are no material gaps in the knowledge base that give rise to any need for a risk assessment.

Effectiveness:

The proposed amendment is the most effective way to maximise use of Commercial zoned land within the District while protecting the amenities and qualities of the adjoining rivers. It is also the most effective way to achieve consistency across most of the waterbody setback rules in the PDP by addressing an oversight that occurred when the Hearing Panel failed to apply as a consequence the updated zone-specific setback of 3m to the setbacks from waterbodies rule.

Efficiency:

The proposed amendments will be the most efficient way to provide more flexibility and certainty to landowners of commercially zoned land while retaining a substantial buffer to protect the amenities and qualities of the adjoining rivers. By using the correct zone-specific setback based on COMZ-S6, there is more consistency for plan-users.

Reasons for deciding on the provisions:

The proposed amendment to COMZ-S7 will bring modest social, environmental, and economic benefits including more flexibility and opportunity for the landowners of Commercial zoned land, as well as retain sufficient controls to protect the amenity, character, and water quality of adjoining rivers and safeguard the ability to provide public access now and in the future.

The proposed amendment to COMZ-S7 is considered the most efficient and effective way to give effect to the following objectives and policies in the PDP for the following reasons:

- Objective SD-O1 by enabling more efficient and effective use of commercially zoned land next to waterbodies, which will support the District's economy and protect the natural character of rivers and their margins from inappropriate subdivision, use and development.
- Objective NATC-O1(2) by protecting the natural character of rivers and their margins from inappropriate subdivision, use and development.
- Policy COMZ-P2 (1) by enabling better use of commercially zoned sites and thus supporting the local economy and needs of businesses.
- Policy COMZ-P11(1)(b) by safeguarding a substantial setback of buildings from the boundaries adjoining open space zoned land (even though the setback might not be officially zoned open space, but the character of the setback zoned land will resemble open space zoned land).

CONCLUSION

Pursuant to s32 of the RMA, the objective of the proposed amendment to COMZ-S7 will maximise usable Commercial zoned land while safeguarding the amenity of nearby rivers. The reduction in waterbody setback distance will however retain the ability to manage any adverse effects. This amendment has been assessed against Part 2 of the RMA and is found to be the most appropriate way to achieve the purpose of the RMA.

The 4.5m reduction in setback will still achieve Part 2 of the RMA as the setback will continue to enable the preservation of the amenities and character of the rivers as well as protect the water quality while also enabling efficient and effective use of any commercial sites that adjoin rivers.

The proposed provision has been compared against reasonably practicable options and is considered to represent the most appropriate means of achieving the proposed objectives, as well as the objectives in the PDP and the objective of the Appellant.