

Before the Hearings Commissioners at Waipawa

Under: The Resource Management Act 1991

In the matter of: Proposed Central Hawkes Bay District Plan –
Ecosystems and Indigenous Biodiversity

SUBMISSIONS ON BEHALF OF ERNSLAW ONE LIMITED AND RAYONIER MATARIKI
FORESTS

TRISH FORDYCE

Introduction

1. These submissions are made on behalf of Ernslaw One Limited (Ernslaw) and Rayonier Matariki Forests (Rayonier). Both companies submitted and or further submitted on the Proposed District Plan and both companies own and or manage plantation forests in the Central Hawke's Bay District.
2. Ernslaw and Rayonier have chosen to jointly present planning evidence by Lynette Baish and these submissions.
3. These joint submissions relate to the Ecosystems & Indigenous Biodiversity topic and will cover the following matters:
 - a. The alignment with the National Environmental Standards for Plantation Forestry, 2017 (NESPF) in relation to the provisions of ECO I1 and rules ECO-R4, ECO-R5 and ECO-R6.
 - b. Exclusion of stock from SNAs-ECO-AM2.
 - c. Mapping and identification of SNAs-ECO-P2.
 - d. Inclusion of fire ponds -Criterion 6 of the ecological Significance Determination Criteria.

Alignment with the NESPF

4. The provisions of ECO-I1, its explanation and then the rules raised concerns for the forest companies. There is no mention of the provisions of the NESPF relating to plantation forestry and the clearance of indigenous vegetation within SNAs or any other clearance of indigenous vegetation. Furthermore, the explanation to ECO-I1 included the following comment:

“ Council recognises there is a need to balance protecting and enhancing the District's indigenous biodiversity while allowing for rural landowners to **farm** their land effectively and efficiently”. (my emphasis)
5. The explanation indicates that the ECO provisions would deal with provisions for farming of rural land and thus exclude provisions for forestry activities on rural land.
6. There is no indication in the proposed plan that the relevant provisions of the NESPF have been considered and the provisions in the proposed plan being assessed to consider it they would or would not be more stringent than the NESPF regulations.
7. Despite the Section 42A report recommending that the explanation to ECO-I1 is retained it is accepted that, at a minimum, there be a note in the proposed plan prior to the rule section making it clear where an activity is regulated by the

NESPF, the ECO rules do not apply, but where the activity falls outside the scope of the NESPF, the ECO rules apply.

8. The section 42A report suggests a note as follows:

“Note – Plantation Forestry Activities - In the case of conflict with any rule in this Chapter, the provisions of the NESPF apply instead of the rule. This specifically applies to vegetation clearance that occurs during or after afforestation outside of a significant natural area, for clearance of a forestry track within a significant natural area where the track has been used in the last 50 years, and ‘incidental damage’ within or outside a significant natural area. Vegetation clearance of indigenous vegetation that occurs before afforestation, or within a significant natural area (other than for clearance of an overgrown forestry track or incidental damage) is not controlled by the NES-PF, and the rules in this Chapter will apply. The NES-PF also imposes additional rules in relation to activities within, or near to, significant natural areas, which are not affected by the rules in this Chapter.”

9. It is my submission that the proposed note does not provide clarity as to the applicability of otherwise of the relevant NESPF provisions. There is no specific reference to the relevant NESPF regulations, the reference to vegetation clearance “that occurs **during** or **after** afforestation outside of a SNA” introduces terminology not used in the NESPF, and not fully referring to all the circumstances when indigenous vegetation occurs only confuses matters.

10. With regard to indigenous vegetation clearance the NESPF provides for three important matters:

- a. First, Afforestation (new forestry) is not permitted at all within a SNA. (Reg.12)
- b. Secondly, with regard to a SNA, indigenous vegetation clearance of a forestry track, if used in the last 50 years, and clearance from incidental damage is permitted. No other clearance is provided for. (Reg. 93)
- c. Last, other indigenous vegetation clearance is permitted subject to specified circumstances and/or quantifiable areas. (reg.93). Reg.93 is appended to this submission.

11. It is proposed that the note be amended as follows:

“Note-Plantation Forestry Activities-in the case of conflict with any rule in this Chapter, the provisions of the NESPF apply instead of the rule. In particular, afforestation must not occur in a SNA (Reg.12) , and clearance of indigenous vegetation in a SNA may only occur for clearing a forestry track that has been used within the last 50 years or is “incidental damage” (Reg. 93 (1) and 93 (4) (5)).

Regulations 93 (2), (3) (4) and (5) set out the provisions relating to other clearance of indigenous vegetation.”

Exclusion of Stock from SNAs

12. Ernslaw submitted on the ECO chapter and sought policy direction and regulatory mechanisms to exclude stock from SNAs. The recommendation in the Section 42A report is to reject the submission. I submit that the evidence of Lynette Baish be considered and accepted. Her planning evidence suggests adding “methods to achieve stock exclusion” to the assessment matters in ECO-AM2.

13. Such amendment would provide clear direction that when assessing a resource consent for trimming and clearance of indigenous vegetation “stock exclusion” could be considered.

Mapping and Identification of SNAs.

14. The forest companies sought that SNAs be **identified and mapped** in the District Plan. The Section 42A Report does not address the reason expressed in the submission that identification and mapping provides certainty for landowners. For plantation forestry, the companies can transpose the SNA maps onto forestry maps and have the certainty that those areas have regulatory restrictions when it comes to the potential clearance of any indigenous vegetation within the identified and mapped SNA. This certainty is required to ensure that forestry activities do not contravene the regulations and could lead to enforcement actions against the forest operators.
15. The submission does not request **ground truthing** before being proposed in a district plan. The existing process that preceded this proposed plan of identifying and mapping a SNA and then relying on the submission process to ensure the proposed boundaries of a SNA are correct would continue. In the future this would be by way of plan changes. It is not clear why a process that has preceded this proposed plan should not be continued in the future.
16. It is submitted that the request to have SNAs identified and mapped be accepted.

Criterion 6 ECO-PI

17. The submission of Rayonier requested that the last bullet point of criterion 6 which provides for the exclusion of “water supply storage, including stock water storage” be amended to include “fire ponds”. The reason for this is that “fire ponds” is a term used in forestry for the ponds created to collect water for use in the case of fire.
18. Often these ponds can end up with indigenous ecosystems. While a fire pond could supply water for fire purposes it is submitted that the normal understanding of water supply is one for human and or stock consumption purposes. The Council has seen fit to be specific that such supply can apply for stock purposes but the Section 42A rejects Rayonier’s request for clarity when it comes to firefighting purposes.
19. The process for identifying SNAs commences with the use of aerial photographs. In other districts fire ponds have been mistakenly identified as wetlands. It is submitted that for certainty and to ensure that there is no challenge in the future as to whether a fire pond would fall within the criterion that the submission by Rayonier be accepted.

20.

Evidence

21. Planning evidence is to be presented by Lynette Baish

Trish Fordyce

A handwritten signature in blue ink, appearing to read 'Trish Fordyce', is centered on the page. The signature is written in a cursive style with a large initial 'T'.

9 March 2022