

IN THE MATTER

of the Resource Management Act 1991

AND

a submission by the Hawke's Bay
Regional Council ('**Regional Council**')

AND

Central Hawke's Bay District Council's
proposed District Plan.

STATEMENT OF SUBMISSION

1 Introduction

- 1.1 Thank you for the opportunity to present this statement in relation to the Regional Council's submission points on the proposed District Plan's natural environment and coastal environment sub-topics.
- 1.2 My name is Gavin Ide. I hold a Bachelor of Resource and Environmental Planning (with Honours) gained at Massey University in 1996.
- 1.3 I am currently employed as Principal Advisor Strategic Planning at the Hawke's Bay Regional Council. I have been employed by the Regional Council since 2003 in various senior positions, all directly involved in resource management policy evaluation and plan preparation. Prior to being employed by the HBRC, I worked at Napier City Council as a policy planner for seven years.
- 1.4 I have been a full member of the New Zealand Planning Institute (MNZPI) since 2010. I have over 25 years' experience in resource management policy option analysis, plan evaluation, plan writing and resource management issues in general.
- 1.5 For the purposes of the Regional Council's submission points relating to District Plan Hearing #1 topics this week, I am presenting a statement for the Regional Council, rather than an expert witness statement. This may not always be the case for the Regional Council's appearances at other hearing topics still to be scheduled.

2 Summary of submission points

2.1 Table 1 presents a summary of the relevant points from the Regional Council's submission, alongside the relevant references in the s42A Reports for Hearing #1, plus further comment from the Regional Council where relevant.

Table 1

Submission point #	Sub-topic (s42A report pg#)	S42A report para #s	S42A Officers' rec'n	Comment
S11.020 NFL – Natural Features & Landscapes	Natural Features & landscapes (p5)	4.2.1	Accept	Agree with officers' recommendation
S11.028 CE – Coastal Environment	Coastal Environment (p5-6)	4.2.1 4.3.2	Accept in part	Agree with officers' recommendation
S11.022 PA - Public Access	Public Access (13)	5.4.2	Accept	Agree with officers' recommendation
S11.021 OSR – Open Space and Recreation	Open Space & recreation (p4)	4.3.1	Accept	Agree with officers' recommendation
S11.027 ASW	Activities on surface water (p17)	6.4.2	Accept	Agree with officers' recommendation

Submission point #	Sub-topic (s42A report pg#)	S42A report para #s	S42A Officers' rec'n	Comment
S11.037 ECO - Intro	Ecosystems & indigenous biodiversity (p27-28)	5.3.58-59 5.4.3 5.5.1	Accept in part	Para 5.4.3 recommends submission point to be accepted in part, but then at para 5.5.1, no reference is made to the reporting officer's commentary and endorsement at para 5.3.59 to insert an advisory note. For completeness, para 5.5.1 needs the additional note (which is already accounted for in the Appendix featuring Reporting Officer's compilation of tracked changes).
S11.040 Rule ECO-R1	Ecosystems & indigenous biodiversity (p71)	10.3.22	Accept	Agree with officers' recommendation
S11.041 Rule ECO-R2	Ecosystems & indigenous biodiversity (p72)	10.3.38	Accept in part	Agree with officers' recommendation
S11.018 Rule ECO-R3	Ecosystems & indigenous biodiversity (p73-77)	10.3.52-53 10.3.62-65 10.4.4	Reject	See statement below.

Submission point #	Sub-topic (s42A report pg#)	S42A report para #s	S42A Officers' rec'n	Comment
S11.042 Rule ECO-R4	Ecosystems & indigenous biodiversity (p79)	10.3.79 10.4.2	Accept	Agree with officers' recommendation
S11.019 Rule ECO-R6	Ecosystems & indigenous biodiversity (p81)	10.3.97-100 10.4.3	Accept	Agree with officers' recommendation
S11.038 ECO-AM1	Ecosystems & indigenous biodiversity (p90)	11.3.8-9 11.3.13 11.4.2	Accept	Agree with officers' recommendation

2.2 At para 5.3.24 (page 25) of Ecosystems and Indigenous Biodiversity s42A Report, the Reporting Officer records that the district council is a signatory to the Hawke's Bay Biodiversity Accord. Both the Regional Council and District Council have supported development of the 2015-2050 Biodiversity Strategy and associated Action Plan for Hawke's Bay.¹ The historical loss of our indigenous biodiversity is staggering. For example, approximately 90% of original native vegetation has been lost in Central Hawke's Bay district. An important action in the Action Plan is that key species and habitats are identified and prioritised. Most of those ecosystem prioritisation sites represent sites that are now very rare in Hawke's Bay. The biggest threats to further biodiversity loss in Hawke's Bay are habitat loss, browsers (e.g. deer and goats), and invasive weeds. Biosecurity control measures and fencing are just a few of the key actions to halting further decline.

¹ <https://www.hbrc.govt.nz/environment/biodiversity/biodiversity-strategy/?url=/hawkes-bay/biodiversity/biodiversity-strategy/>

3 Rule ECO-R3

- 3.1 The Reporting Officer has recommended rejecting the Regional Council's request to delete condition 1(a) in its entirety from Rule ECO-R3.
- 3.2 In our original submission, we expressed concern that year upon year upon year, any person could remove a substantial amount of potentially mature indigenous vegetation, regardless of need or purpose of that clearance. The Regional Council's view was that Rule ECO-R3 did not align well with the district council's duties in terms of recognising and providing for "the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna" as per section 6(c) of the RMA.
- 3.3 When notified, Rule ECO-R3 had two branches, effectively separating condition 1(a) from condition 1(b).
- 3.4 At paragraph 10.3.62 (page 76), the reporting officer describes the intent of Rule ECO-R3 as being:

"to allow landowners, who in the context of Central Hawke's Bay are generally farmers, with activities, within an area of significant indigenous vegetation and/or significant habitat of indigenous fauna in circumstances not listed in condition 1(b)."

- 3.5 The Reporting Officer recommends rejecting our submission point S11.018 so condition 1(a) is retained, despite our request to delete it entirely. However, in response to submissions from other parties, the Reporting Officer is recommending an amendment to Rule ECO-R3 so small-scale clearance under condition 1(a) must be read in conjunction with matters in condition 1(b). This linkage is installed by replacing the separator "or" with "and" instead.
- 3.6 What this means is that condition 1(a) applies conjunctively with condition 1(b). We consider that amendment now makes more sense. It does not prevent a person from clearing up to 500m² of mature indigenous vegetation in any 12 month period, year upon year, as a permitted activity. But importantly it does now require any such clearance to be clearly linked to at least one of the privileged purposes listed in condition 1(b).
- 3.7 We submit that that linkage is very important for the Panel to adopt as it will define what Rule ECO-R3 permits and what it does not, if condition 1(a) is not deleted in its entirety.

4 Reporting officer's commentary about respective roles of councils

- 4.1 The Reporting officer's evaluations on our submission points is appreciated. One particular comment that is worth drawing to your attention is at paragraph 5.3.56 (page 27). There, when discussing land use controls for water quality purposes, the reporting officer over-simplifies the respective roles and responsibilities of the regional council and the district council.

4.2 As this is District Plan Hearing #1 in a series, this is a timely opportunity to assist the Panel by responding to the reporting officer's following statement, even though it does not directly relate to the Regional Council's submission points for Hearing #1:

“Control of the use of land for the purpose of maintaining and enhancing water quality, including water takes, is however a regional council function (s30(1)(c)). Therefore, in my view, it would not be appropriate to include rules in the District Plan for this purpose...”

4.3 We agree that section 30(1)(c) of the RMA empowers regional councils with the authority to control land use activities for a limited range of purposes. Section 30(1)(ga) of RMA also empowers regional councils to establish methods, including rules on land use activities, for maintaining indigenous biodiversity. But we submit that s30(1)(c) **does not** preclude a district council from itself controlling the use, development or protection of land simply because the purpose of that control also happens to fall within ambit of a regional council's functions.

4.4 Section 31(1)(a) of the RMA empowers district councils to establish methods (including rules) to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district. Further, s31(1)(b) states that territorial authorities have a function to control *“any actual or potential effects of the use, development, or protection of land, **including** for the purpose of:*

(i) the avoidance or mitigation of natural hazards; and

(iia) the prevention or mitigation of any adverse effect of the development, subdivision, or use of contaminated land;

(ii) the maintenance of indigenous biological diversity.” (emphasis added)

4.5 Those matters of purpose listed (i), (iia) and (iii) are not exhaustive, nor exclusive.

4.6 Section 31(2) confirms that those functions may also extend to the control of subdivision.

4.7 We urge the Panel to keep an open mind to those broad powers and not simply discard a potential district plan rule or condition because it may relate to one of the matters in section 30(1)(c) or (ga) that are designed to **confine the regulatory powers of regional councils** on the use of land.

5 Officers' recommendations on other submission points

5.1 We support the Officer's recommendations in relation to the other parts of our submission covered in the Hearing #1 Reports as summarised in Table 1 above. We urge the Hearings Panel to adopt those recommendations.

6.0 Thank you for the opportunity to present this submission on behalf of the Hawke's Bay Regional Council.

Gavin Ide, BREP (Hons), MNZPI

Principal Advisor Strategic Planning

Hawke's Bay Regional Council

Dated 14th March 2022