

HEARING

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To: Central Hawke's Bay District Council
Hearing Panel

Regarding: **Proposed District Plan**
Hearing Stream 1

Date: 15 March 2022

Submission by: Hawke's Bay Federated Farmers

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1. Hawke's Bay Federated Farmers welcomes this chance to present to the Hearing Panel during Hearing Stream 1: *Natural and Coastal Environment*. Federated Farmers is interested in the provisions for Ecosystems & Indigenous Biodiversity, Natural Features & Landscapes and NFL-SCHED6, Public Access, Coastal Environment and CE-SCHED7.
2. My name is Rhea Dasent, I am a senior regional policy advisor for Federated Farmers. I was the author of the Federated Farmers' submission and further submissions on the proposed District Plan, and the evidence lodged for Hearing Stream 1. This work has been done in consultation with local Central Hawke's Bay members, and with my own knowledge about how district plans impact farmers. My views are closely aligned with those of Federated Farmers, due to my own farming background.

Definitions of Indigenous Vegetation

3. Federated Farmers was pleased with the Section 42a Report's recommendation to accept many of our submission points and make amendments accordingly.
4. However, planted indigenous vegetation still needs to be excluded from the definition of Indigenous Vegetation and from the Significant Natural Area (SNA) criteria.
5. This is the approach taken by the recent Waikato District Plan. Their decisions version of the definition reads *Indigenous Vegetation: Means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance. It excludes domestic or ornamental/landscaping planting or planted shelter belts comprising indigenous species.*
6. The Section 42a Report writer opines it is more appropriate to provide for exclusions within the rule framework as currently provided in the proposed District Plan rather than include them in the definition¹. We disagree. The report writer considers that keeping planted vegetation the definition, and retaining rule ECO-R1, better provides for the protection of the District's significant indigenous vegetation and significant habitat of indigenous fauna. The report writer also says that providing a different activity status based on adverse effects achieves this: where those effects are likely to be less, trimming or clearance is permitted². Again, we disagree, because even permitted rules are still regulation.
7. The benefits of excluding planted vegetation from the definition include:
 - a. Removing the discouragement to plant;
 - b. Simplifying the rule regime;
 - c. Focusing on remnant and natural vegetation with higher biodiversity value.
8. Regulation acts as a discouragement. It discourages poor management practice by enabling good practice instead. It discourages inappropriate land uses by permitting the appropriate ones in the right zones. It discourages activities with higher adverse effects by increasing their activity status. It makes people think twice if they need to go through a resource consent process. But even permitted activity rules are still regulation, which needs to be checked and applied to unique individual situations by farmers, and monitored and enforced by the Council. A way of reducing the regulatory burden is to not plant the indigenous vegetation in the first place. This could be a perverse outcome of Rule ECO-R1.
9. The rule regime will be simplified if it excludes planted indigenous vegetation from the definition. Then Rule ECO-R1 can be removed completely. It is my view that permitted rule ECO-R1 is a symptom of the default rule ECO-R5, giving a discretionary status to all other activities otherwise not provided for. This burdens the Council (and submitters) to make sure all possible scenarios

¹ Para. 4.3.59 of the Officer's Report: Natural Environment – Ecosystems and Indigenous Biodiversity.

² Para. 10.3.34 of the Officer's Report: Natural Environment – Ecosystems and Indigenous Biodiversity.

have a rule, otherwise they will default to discretionary. Doing away with Rule ECO-R1 and excluding planted indigenous vegetation from the definition will make a more streamlined chapter.

10. The exclusion of planted vegetation from the definition will mean that the regulatory focus can hone in on remnant or more special indigenous vegetation. Planted vegetation will be for a purpose, such as for riparian stability or water quality, carbon sequestration, or ornamental. It probably won't have the same biodiversity values as natural or remnant vegetation. The Council will better meet its obligations under Section 6 of the Resource Management Act 1991 (RMA) if it concentrates on natural and remnant vegetation, like SNAs.
11. The Council needs to consider what the advantages are of including planted vegetation in the definition. Federated Farmers only sees disadvantages. Excluding planted vegetation from the definition will not result in a loss of biodiversity, will it really matter if a planted area is removed, or changed? If it becomes a significant habitat it will be identified as such in the 10 year review of the District Plan.

Significant Natural Areas

12. Federated Farmers submits that legally protected sites, such as under a QEII covenant, are excluded from the schedule, and the rule regime. The Section 42a Report writer felt that such an exclusion would be detrimental to the Council's obligations to Section 6 of the RMA³, but we disagree.
13. The Regional Resource Management Plan mentions covenants in POL 4 of Chapter 3, but only in relation to non-regulatory methods. I provide the policy text here:
14. *POL 4 ROLE OF NON-REGULATORY METHODS To use non-regulatory methods, as set out in Chapter 4, as the primary means for achieving the preservation and enhancement of remaining areas of significant indigenous vegetation and ecologically significant wetlands, in particular:*
 - a. *Economic instruments – Providing financial support for the preservation of remaining areas of significant indigenous vegetation or wetlands, including support for the covenanting of indigenous vegetation, at a level of funding as established in the HBRC's Annual Plan.*

For the purposes of this policy, significant indigenous vegetation includes any of the following:

 - (i) *Vegetation that has been especially set aside by statute or covenant, or is otherwise legally managed for protection or preservation.*
15. The text that specifies covenanted sites are classified as significant indigenous vegetation, is only for the purpose of this policy about non-regulatory methods. There is no other definition that specifically includes covenanted

³ Para. 7.3.17 of the Officer's Report: Natural Environment – Ecosystems and Indigenous Biodiversity.

sites. The RRMP does not direct the Council to classify covenanted sites as SNAs for regulatory purposes.

16. Given that the proposed District Plan doesn't provide any non-regulatory methods that incentivize existing covenants, there is no risk of covenanted sites missing out on incentives if they weren't included in the Schedule. Non-regulatory methods are limited to promotion, advocacy, education and information sharing, mainly to get sites into new covenants, and not really for those already covenanted.
17. Federated Farmers disagrees that the Council will be found wanting towards its Section 6 obligations to protect significant indigenous vegetation and significant habitats if it doesn't classify covenanted sites as SNAs. The covenants already achieve protection. The Council can "capture" this existing benefit by including a policy and method that recognises that significant sites are already protected by legal covenants, and that nothing more is needed. This would mean a lot to farmers; their selfless protection of such sites will be seen.

Wetlands

18. Wetlands are a topic that now enjoy an elevated focus since the Proposed District Plan was being developed in 2020-21.
19. The National Policy Statement for Freshwater Management 2020 includes policies to avoid the reduction of natural inland wetlands, protect their values and promote their restoration. The National Environmental Standards for Freshwater 2020 has regulations that place restrictions on damaging activities in and near natural wetlands. Indigenous vegetation is a value for wetlands, and regional councils are tasked with identifying and mapping, and including specific wetland policies in their Plans.
20. Perhaps this topic is now best left to the Hawke's Bay Regional Council to manage, and ECO-R6 removed.
21. Otherwise Federated Farmers continues to seek the expansion of Note 1 for restoration activity undertaken by landowners, the same as restoration undertaken by Department of Conservation, Hawke's Bay Regional Council, or Central Hawke's Bay District Council. Landowners may be acting with QEII to restore their wetland, or be acting in accordance with the Regional Pest Management Plan controlling [aquatic pests and weeds](#).

Outstanding Natural Landscapes

22. Section 6(b) of the RMA places an obligation on us to protect outstanding natural features and landscapes from inappropriate subdivision, land use and development. Federated Farmers does not dispute this.
23. We have two facets to our submission regarding Outstanding Natural Features and Landscapes (ONFLs): that these are robustly identified; and that protection is from only inappropriate activities. Assessing what an inappropriate activity

is relies on a schedule that clearly states what land uses are present on specific ONFLs, such as farming.

24. There is a perception that ONFLs are only identified over crown land, however ONFLs frequently extend over private land and rules that are intended to protect an ONFL will end up preventing activities occurring on an existing farm. We seek confirmation that ONL1 Ruahine Ranges and ONF4 Makaroro Gorge are both limited to Crown land, and the ONFL boundary aligns with the Crown property boundary.
25. For ONFs that are located on private land, landowner submissions will be key to ensuring the desktop identification aligns with the ground-truthing. It is important that only land that demonstrably meets the criteria is mapped as an ONFL, so as to avoid the unintended regulatory consequence of needlessly restricting activities on land that is not outstanding.
26. Members tell me that ONFL mapping on their property will have the regulatory consequence of not being able to plant production forestry on that land. This is because the National Environmental Standards for Plantation Forestry Regulations 2017 Permitted Activity Condition 12 reads *Afforestation must not occur within a significant natural area or an outstanding natural feature or landscape*. Farmers with steep ONFLs may want to retire this land from pastoral farming and into production forestry for water and soil conservation purposes or to meet their nutrient leaching goals. But the ONFL status limits them to only long-term ecological restoration planting of forest species; or willows and poplars space planted for soil conservation purposes, and not harvest-able forestry. ONF1 Whakarara Range and ONF6 Silver Range are examples where this regulatory consequence will apply.

Significant Amenity Features

27. Federated Farmers seeks the Significant Amenity Features (SAFs) are deleted from the District Plan. We understand there are no rules, nonetheless their presence in the District Plan still constitutes as regulation which adds complexity for no benefit.
28. There is no onus on the Council to map Special Amenity Features, neither in the RMA nor in the RRMP. The Waikato District Council decided in January this year to delete Significant Amenity Landscapes, and provided reasoning that Federated Farmers agrees with.
29. Farming is an important part of the Central Hawke's Bay and indeed it should be positioned to thrive. However, Federated Farmers struggles to see how the use of SAFs will assist this. Most of the SAF areas contain farmland, and rural amenity is best accommodated through the rules of the rural zones.
30. NFL-P7 does note that many Significant Amenity Features comprise working farms, yet farming is not identified as a feature or aspect of SAFs in the Schedule. The ability to assess whether an activity is consistent with existing land use or values is stymied by the lack of recognition of these in the Schedule.

31. SAFs are functioning as a needless alert layer, triggering extra consideration when activities require a resource consent. This extra amenity consideration creates an unequal difference for farmers unlucky to have an SAF on their property compared to their neighbours that don't. The Council will be processing resource consents for farm activities with additional objectives and policies to assess amenity, compared to resource consents for the same activities on a farm that does not have SAF mapping. Is this productive and achieving the goal of sustainable management of the district?
32. It is the *enhancement* policy NFL-P8 which is of most concern to Federated Farmers, particularly when the activity that needs resource consent is consistent and appropriate with the existing land use, like farming. Will a farmer who needs consent for a tractor shed that exceeds the maximum 10m height, have to enhance the SAF environment? What about the farmer who needs a shelterbelt that is more than 20m along a boundary, will they have to enhance the SAF environment? Both are examples consistent with their underlying rural zoning and existing landuse.
33. The Hastings District Plan has very similar SAF policies to CHB, but Hastings Policy LSP10 for enhancement of SALs has an explanation as a result of the Federated Farmers appeal on this matter: *Applicants for consent are not required to provide for enhancement of Significant Amenity Landscapes and activities that are consistent with the underlying zoning and existing land uses could in some circumstances be considered as enhancing amenity values.* However I reiterate that Federated Farmers is seeking deletion of SAFs, not amendment.
34. It is unfair that the assessment matters are the same, and the landscape matters to consider are the same, whether it is an ONL, ONF or SAF⁴. The SAFs have been measured against the ONFL criteria, and acknowledged as not meeting the threshold, yet resource consents are being assessed as if they did. A big difference between an ONFL and an SAF is the degree of human modification, so potential adverse effects on the landscape values, and the permitted baseline, will be very different. For SAFs, adverse effects will be of a scale and character that is over and above existing farm land uses, and the level of effects already anticipated and enabled by the rural zoning.
35. Federated Farmers urges the Hearing Panel to look closely at the SAFs and determine if they really are that different from the rest of the rural zone. Another question is whether these SAFs are at risk of a reduction in amenity that is more than what the rural zone provisions already manage. Activities like earthworks, vegetation clearance, buildings and subdivision are already managed, the rural land that is classified within SAFs are not likely to face different pressures than the rest of the rural zone.

⁴ Para. 7.3.11 of the Officer's Report: Natural Environment – Ecosystems and Indigenous Biodiversity.

This concludes my spoken presentation.

I am available for any questions you may have.

