

**BEFORE THE HEARING COMMISSIONERS
THE PROPOSED WAIKATO DISTRICT PLAN (STAGE ONE)**

UNDER **the Resource Management Act 1991**

IN THE MATTER **of Hearing 18: Rural zone and Rural subdivision
(Proposed Waikato District Plan) submissions and
further submissions**

**STATEMENT OF HILARY JEAN WALKER ON BEHALF OF FEDERATED FARMERS
OF NEW ZEALAND**

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1. Introduction

- 1.1 My name is Hilary Jean Walker. I am a Senior Policy Advisor with Federated Farmers of New Zealand (“FFNZ”).
- 1.2 I have reviewed the Rural Zone S42A report prepared by Jonathan Clease dated 25 August 2020, and Rural Subdivision S42A report prepared by Katherine Overwater dated 25 August 2020 for Hearing 18 Rural Zone and Rural Subdivision in relation to the Proposed Waikato District Plan (“PWDP”). This report addresses matters to which FFNZ made submissions (submitter 680) and further submissions (FS1342).
- 1.3 The contents of this statement are made in my role as Senior Policy Advisor, it will build upon Federated Farmers submission and provides our response to key recommendations made in the Section 42A Reports (‘S42A’).
- 1.4 The statement follows the same format as the S42A reports.

RURAL ZONE

2. Section 4.1 Objective 5.1.1 The rural environment

- 2.1 FFNZ submitted (680.55) in partial support of Objective 5.1.1 but sought the following tracked changed amendments to better meet Waikato Regional Policy Statement (“WRPS”) Objective 3.25 Values of Soils and Policy 14.2 directives.

5.1.1 Objective – The rural environment

(a) Subdivision, use and development within the rural environment where:

- (i) high class and versatile soils are protected for primary productive use and to maintain the productive land resources for future generations rural activities;
- (ii) productive primary productive use and rural activities are supported and enabled in a manner which does not reduce existing primary productive use or compromise existing and future primary productive use options while maintaining or enhancing the rural environment;
- (iii) urban subdivision, use and development in the rural environment is avoided. the use and development of rural resources enables people and communities to provide for their economic, social and cultural wellbeing

- 2.2 The submission point was assigned to Hearing 3 and not considered within the Hearing 18 S42A Report.
- 2.3 Agriculture is significant to the district, both in economic terms and for the basis of district identity as a thriving and successful rural region. Primary production activities such as dairying, dry stock and horticulture make

significant contributions to the economic, social and cultural well-being of the district. FFNZ believes that the proposed district plan (“PDP”) needs to adopt a more balanced and considered response between resource use and resource protection. Any decisions, policies or rules relating to the sustainable management of the district’s rural land and soils must recognise the economic, social and cultural wellbeing that rural activities provide to the district and wider region.

- 2.4 FFNZ support a high priority being given to maintaining the productive capacity of rural land resource. Sustaining the primary sector activities dependant on this land is critical to providing for current and future generations. Whilst it is considered the request to include versatile soils within the objective framework would help to better achieve that, the Hearing 3 S42A recommended a rejection of that inclusion on the basis that the ‘protection’ requirement of 5.1.1(a)(i) is more appropriately focused on high class soils. This aspect is accepted and is consistent with WRPS Objective 3.26 - High Class soils.
- 2.5 The other components of the relief sought were not addressed and arguably the whole submission point would have been more appropriately assigned to Hearing 18.
- 2.6 FFNZ considers the relief sought with regards to Objective 5.1.1 (a) (ii) and (iii) amendments will help ensure the plan is future focused and meets WRPS Implementation method 14.2.1 direction to prioritise productive uses of high class soils over non-productive uses, whilst recognising there are a range of uses and development within the rural environment which are broader than farming and important for economic, social and cultural wellbeing.
- 2.7 Without the benefit of the FFNZ submission point the S42A recommendation does seek to enable rural-related activities and development more broadly. However, a consequence of the changes work to, inadvertently perhaps, relegate the importance of primary productive activities within the rural zone and elevate activities such as community activities, which includes child-care and education facilities, inappropriately.
- 2.8 FFNZ does not support community activities that do not require a rural location being prioritised to the extent recommended under changes to Objective 5.11. The material outcome of this change in focus is seen in the recommended new implementation method which provides for child care facilities, unrestricted in child numbers, and primary or secondary schools, again with no student number maximums set up in the rural zone using a restricted discretionary activity content status, under new rule 22.1.3 (RD3). This is the same consent status as rural industry which is recognised as

being industry or business undertaken in the rural environment that directly supports, services or is dependent on primary production.

- 2.9 There is some merit in the recommended changes with regards to other activities that are anticipated in the rural areas, such as rural industry, conservation activities, recreational activities and emergency service facilities. There is also some merit in enabling small home-based child-care business opportunities for families within the rural zone. However, the recommended planning approach with regards to community activities goes beyond enabling activities that are anticipated in rural areas and contribute to the rural character.
- 2.10 With regards to the recommended changes to Objective 5.1.1 and the subsequent recommended planning response FFNZ extends:
- partial support to recommended changes to Objective 5.1.1;
 - partial support to new Policy 5.3.4;
 - support to new rule 22.1.2 P18 - childcare subject to limit of no more than four non-resident children;
 - opposition to new rule 22.1.3 RD3 – childcare facility for 5 or more non-resident children, education facilities that are primary or secondary schools and community facility.

3. Section 4.2 Rural Resources Objective 5.2.1

- 3.1 FFNZ asked for Objective 5.2.1 to be deleted (680.57) on the basis that it is the Regional Council's function under the Resource Management Act 1991 ('RMA') section 30(i)(c), to control land use for the purposes listed under clauses 5.2.1(a)(iii) and (iv) in particular and with regards to the life-supporting capacity of soils more generally, the WRPS Policy 14.1 *Maintain or enhance the life supporting capacity of the soil resource* directs the Regional Council to achieve these goals through Implementation methods 14.1.1 to 14.1.4.
- 3.2 The district council's role, as directed by the WRPS Policy 14.2 *High class soils*, is to ensure land use is managed in a way that does not decline the availability of high class soils for primary production due to inappropriate subdivision, use or development. The notified Objective 5.1.1 is designed to meet this need.
- 3.3 The S42A report recommends deletion of clauses 5.2.1(iii) and (iv) on the basis that they are an unnecessary duplication of the Regional Council's functions and this is supported.

- 3.4 The submission also raised concern with clause 5.2.1(ii) because it, in part, is an unnecessary duplication of the resource management issues being addressed under Chapter 3 Natural Environment. The notified Objective 3.1.1 is included for easy reference. It is also unclear what is meant by 'rural land' in this context.

3.1.1 Objective – Biodiversity and ecosystems

(a) Indigenous biodiversity values and the life supporting capacity of indigenous ecosystems are maintained or enhanced.

- 3.5 FFNZ acknowledges there is widespread support for the broad intent of the objective and can see merit in the recommended changes to 5.2.1(a)(i). On balance it is accepted there is a purpose for the objective post deletion of clauses 5.2.1 (ii), (iii), (iv) which are either an unnecessary duplication of matters addressed elsewhere in the plan or not appropriate as managed under the regional council plan.

4. Section 4.2 High Class soils Policy 5.2.2

- 4.1 FFNZ sought deletion of Policy 5.2.2(b) submission point (680.58) because the management of chemical and biological properties of soils is not a territorial authority function. The WRPS is clear under Implementation Method 14.1.1 that Regional plans will control the effects of activities to maintain soil quality.

Implementation methods 14.1.1 Manage the effects of activities to maintain soil quality and reduce risk of erosion

Regional plans shall control the effects of activities to maintain soil quality and to reduce the risk of erosion, including:

- a) activities that negatively impact on soil quality and ecosystem services;
- b) activities on land with high erosion potential and/or near water bodies;
- c) earthworks and soil disturbance, including controlling the timing, duration, scale and location of soil exposure;
- d) maximising the retention of soil on site and in situ; and
- e) the adverse effects on pumice soils.

- 4.2 FFNZ is concerned about unnecessary duplication, overlap and added costs arising from overregulation, without added value. Waikato District Council ('WDC') can realistically do its part in protection of soils by way of subdivision and development controls. There is also concern that clause (b) has the potential to capture and control other activities inappropriately.
- 4.3 The S42A report incorrectly states the opposition as being related to the difficulty in measuring and enforcing the outcome, para 94. As reiterated in this hearing statement the concern is that Policy 5.2.2(b) is inconsistent with the WRPS direction and has potential to create unnecessary duplication. This position remains, the S42A recommendation to reject the submission point is not supported.

5. Section 4.2 Effects of subdivision and development on soils Policy 5.2.3

- 5.1 FFNZ made a submission (680.59) seeking amendments to Policy 5.2.3(b) to better recognise that subdivision, use and development policies and planning should provide for managed growth in rural communities. While land use change, subdivision and land development activities in rural areas has potential to result in the loss of productive land, there is a need to recognise that farmers may need to undertake small lot subdivision for a number of reasons, including; providing for farm succession, disposing of surplus dwellings and for providing on-farm accommodation for family members and employees, and the rearrangement of lot boundaries to enable more efficient land management.
- 5.2 Considered, well-managed growth in rural communities provides for diversity and vibrancy in rural areas, sustains essential community infrastructure, and provides employment flexibility and opportunities. FFNZ consider that there are benefits to enabling subdivision and other rural-residential opportunities, however, this should be done in a way that appropriately protects rural character and enables and maintains a reasonable use of productive land.
- 5.3 The submission sought the following changes to 5.2.3(b)
- (b) Subdivision which provides a range of lifestyle and economic options is managed in a way that ensures rural resources, character and environmental values are retained. directed away from high class soils and/ or where indigenous biodiversity is being protected.
- 5.4 The S42A states at para 99 that it is important for the rural chapter to provide clear direction as to the anticipated outcomes and clearly articulate expectation and development rights so that landowners and the wider community have a clear understanding as to how this important issue is being managed.
- 5.5 FFNZ agrees with this reasoning and suggests it furthers the argument for including the policy as amended by the relief sought in this submission. The two-tiered approach outlined in the notified policy is appropriate. Policy 5.2.3(a) works to implement WRPS Policy 14.2 and prioritises high class soils appropriately. Policy 5.2.3(b) as amended by FFNZ, provides clear direction as to what is considered appropriate subdivision and how effects and development can be managed.
- 5.6 For the reasons stated, FFNZ does not support the recommendation to delete Policy 5.2.3(b).

6. **Section 4.2 Rural character and amenity Objective 5.3.1**

- 6.1 FFNZ submission (680.60) sought changes to Objective 5.3.1 to include reference to the values which contribute to rural character and amenity as way to ensure the objective is appropriately focused. There are benefits to enabling a range of land use opportunities within the Rural Zone, but this should be done in a way that appropriately maintains the values that contribute to the rural character and amenity of the zone.
- 6.2 The S42A reasoning at para 104 understands the sentiment expressed by submitters and acknowledges that terms like 'rural character' and 'amenity' are inherently subjective, with the proposed Objective doing little to guide future plan users or decisions makers.
- 6.3 The S42A recommendation is to reject the submission and introduce a new Policy 5.3.2 Contributing elements to rural character and amenity values.
- 6.4 The new policy (a) and (b) provisions are not supported, the characteristics and values are too over simplified and over generalised to provide any material planning benefit. The rural environment characteristics as proposed introduce blunt and artificial distinctions. Dwellings and rural-related farm buildings maybe clustered and maybe near neighbouring properties. The location of buildings will be determined by any number of reasons relating to access, topography, historical use, or purpose for example. There is potential for these proposed provisions to limit rather than support the intentions of the chapter.
- 6.5 If it is determined that there is merit in introducing a new policy for the purpose of describing the characteristics and features of the rural environment, it is suggested that the Waipa District Plan provides a more appropriate description of what constitutes 'rural character'. Though it is accepted this is contextual information rather a policy and is quite a departure from the form of the proposed Waikato District plan.

Waipa District Plan, Section four, rural zone, 4.1 introduction 4.1.12

Rural character is a broad concept, defined by the various elements that make up the rural environment. These elements help to distinguish the differences between those areas that are urban or large lot residential, from those which are rural. The elements that define the District's rural character are:

- (a) Areas of vegetation (in a natural state or managed, indigenous and/or exotic), such as pasture used for grazing stock, crops, forest and scrub, riparian stream margins, lakes and wetlands; and
- (b) Open landscapes containing natural features and scenic vistas including flat to rolling terrain, volcanic cones, streams, lakes, peat lakes, rivers and wetlands that are largely free from development; and
- (c) Low density widely spaced built form, with dwellings and farm buildings dispersed in the wider landscape; and

- (d) Land uses of a predominantly production or rural working nature such as farming and related farm storage sheds, stock yards, farm animals and houses, and the widespread use of machinery supporting the principal productive land use. The characteristic noises and odours of farming are part of the rural working nature of the Rural Zone; and
- (e) Occasional papakāinga and marae with associated activities and events; and
- (f) Infrequent rural based industry (see definition) sites such as cool stores and wineries, as well as infrequent mineral and aggregate extraction sites, intensive farming operations and rural service providers such as agricultural contractors; and
- (g) Infrequent tourism or traveller accommodation based facilities generally associated with landscape features; and
- (h) Generally un-serviced land with a lack of urban infrastructure such as reticulated water and wastewater systems; and
- (i) An extensive network of roads with varying traffic levels, primarily without kerbs, footpaths or other urban structures such as street lighting, unless required for road safety reasons. Higher traffic levels occur on State Highways, arterial and some collector roads; and
- (j) Occasional local temporary events and activities such as equestrian hunts, farm open days, local fund raising events, pony club, and associated events and activities in rural community halls; and
- (k) Recreational hunting

6.6 There is some merit in the proposed new clause (c) which provides clarity on the types of activities and effects which can be expected in the rural zone. However as drafted relates more to reverse sensitivity effects than the qualities and values which contribute to rural character and amenity.

6.7 In our view a focus on 'values' in the objective would introduce a degree of guidance which is useful and necessary for recognising the evolving nature of rural zone areas whilst still meeting RMA responsibilities, to the extent that the new policy, in particular (a) and (b) are unnecessary.

7. **Section 4.2 Density of dwellings and buildings Policy 5.3.4**

7.1 FFNZ made a submission (680.63) expressing concern with the focus of the policy on open spaces only. As can be seen from the Waipa District Plan example, open space is one of many elements which contribute to what is understood to be rural character. Prioritising this value over others has the potential to create perverse outcomes.

7.2 The policy is also too specifically focused on providing for worker accommodation. It should also recognise that farm properties may require extra dwellings which are occupied by non-staff, for example, other family members living on the farm who may not be employed on the property. There will be situations such as farm succession where retired family members will continue to live on the property. Furthermore, the term 'worker' may not cover the situation where more than one owner of the property resides on the farm in separate housing, as they aren't technically 'staff'.

- 7.3 The S42A accepts there is merit in providing more specific direction regarding rural character outcomes and the management of minor units, para 272. The recommended way to achieve this is with a rewrite of the notified policy and subsequent changes to Rule 22.3.1 P1.
- 7.4 The renumbered and rewritten Policy - Density of residential units, and recommended changes to Rule 22.3.1 P1 are supported in that they work to address the concerns raised with regards to the type and nature of residential use which can be required on farm.
8. **Section 4.2 Effects on rural character and amenity from rural subdivision Policy 5.3.8**
- 8.1 FFNZ made a submission (680.67) seeking amendment to broaden the focus of the policy to better recognise and enable the drivers behind rural subdivision.
- 8.2 The S42A report recommends a rewrite and renaming of Policy 5.3.8. The recommended changes do provide clearer policy direction and are supported.
9. **Section 4.2 Dwelling Density Rules 22.3.1**
- 9.1 FFNZ made a submission (680.218) supporting the graduated approach of 22.3.1 P1, to the number of dwellings on a site, but seeking changes because the proposed area sizes are overly restrictive for rural purposes. Many farms have extra dwellings as accommodation for farm managers, employees, or retired parents. Allowing for more than two dwellings per site on larger properties will enable the social well-being of rural communities.
- 9.2 The S42A accepts at para 263 that larger properties can facilitate more residential dwellings without compromising the open space character of the rural zone and recommends amendments to Rule 22.3.1 P1 accordingly. The recommended changes are supported.
- 9.3 The S42A incorrectly states at para 266 that no submitters sought to amend Clause 22.3.1(c) which does not permit dwellings within areas of high landscape value. The FFNZ submission sought to have Rule 22.3.1(c)(iii) and (iv) deleted on the basis that the rule should not apply to areas which do not meet RMA section 6(b) status. It was further noted in other submission points that there is no Outstanding Natural Character Area layer or High Natural Character Area layer identified on the notified planning maps. That rendered the terms superfluous.
- 9.4 Matters relating to landscapes have been assigned to Hearing 21B. The S42A report for that topic has recommended introducing Natural Character

Area schedules that identify the Outstanding Natural Character Areas and High Natural Character Areas within the district. This has enabled FFNZ to assess the impact of the proposed planning approach on our members and clarified that those areas apply to section 6(a) matters.

9.5 If the recommended schedules are introduced into the plan FFNZ will no longer be concerned with this aspect of the proposed rule.

10. **Section 4.2 Minor Dwelling 22.3.2**

10.1 FFNZ made a submission on Rule 22.3.2(P1) which has not been included in the S42A report submission list. Concern was expressed over the 20m separation distance being too restrictive. The S42A recommends increasing the distance to 100m and this is supported.

11. **Section 4.2 Productive rural activities Policy 5.3.2**

11.1 FFNZ made a submission (680.61) seeking deletion of the reference to 'productive' with regards to rural activities in 5.3.2(a)(i) and (ii). It is not clear what is meant by 'productive rural activities' or how it will be quantified in this context, the term is not defined. The tracked change relief sought to Policy 5.3.2 is provided below:

(a) Recognise and protect the continued operation of the rural environment as a productive working environment by:

(i) Recognising that buildings and structures associated with farming and forestry and other operational structures for ~~productive~~ rural activities contribute to rural character and amenity values;

(ii) Ensuring ~~productive~~ rural activities are supported by appropriate rural industries and services;

(iii) Providing for lawfully-established rural activities and protecting them from sensitive land uses and reverse sensitivity effects.

(iv) Recognising the use and development of rural resources enables people and communities to provide for their economic, social and cultural wellbeing

11.2 The submission point is not accepted, with the S42A, report advising at para 119 that the notified wording is important for recognising that the rural environment is a working and economically productive environment. In our view the policy header at (a) provides that recognition. The use of the word 'productive' as a quantifier in the clauses, raises the question as to how it will be quantified. The policy header sets up the policy purpose, including the term 'productive' in the clauses creates potential for uncertainty and confusion.

- 11.3 The S42A analysis, paras 120 and 121, with regards to the other aspects of the relief sought is understood, with recommended changes introduced to accept the relief sought.
- 11.4 FFNZ supports the recommendations with respect to clauses (iii) and the new (iv) but maintains the position that the quantifier 'productive' should be removed from clauses (i) and (ii).
12. **Section 4.2 Non-rural activities Policy 5.3.9**
- 12.1 FFNZ sought deletion of this policy (680.68) on the basis that it was an unnecessary duplication of matters addressed in other policies.
- 12.2 The S42A analysis did not respond directly to the submission point. The focus was on the purpose of the notified policy, described at para 128, as providing direction for activities that are broadly anticipated in the rural environment. The conclusion reached at para 130 was that the policy needed to be reframed to provide more explicit direction on community and recreation activities. The policy would be renumbered as Policy 5.3.4 –Other anticipated activities in rural areas, and introduced as a replacement to notified policy 5.3.9.
- 12.3 The recommendation is supported except for clause 5.3.4(b)(i). FFNZ is concerned with the consequential amendments to Chapter 22.1 that have been proposed to implement the change in policy focus. The activities which are proposed to be enabled within the rural zone are not 'rural related', non-farming activities and are not broadly anticipated in the rural environment. Two key examples are childcare facilities and primary or secondary schools with no restrictions placed on numbers. These are sensitive land uses which have the potential to increase reverse sensitivity effects.
13. **Section 4.2 Industrial and commercial activities Policy 5.3.3**
- 13.1 FFNZ sought amendments to provide clarity to the policy (680.62). A key point being that industrial and commercial activities need to be managed to ensure any potential effects on the rural character are avoided, remedied or mitigated.
- 13.2 In response the S42A reasons that industrial and commercial activities with no functional need or connection to rural resources should be avoided. The notified planning approach to implement 'avoid' policy direction has been to apply non-complying activity status to relevant activities, para 144. FFNZ asks for this same reasoning to be applied to activities like primary and secondary schools and child care facilities with no limit on numbers. These activities have no functional need or connection to rural resources and yet

there is a S42A recommendation to have these enabled via a restricted discretionary status within the rural zone.

- 13.3 The point is made at para 145 that policy direction could be improved with more overt direction to enable for rural commercial and rural industry. To facilitate this it is recommended, at para 146, for a new definition for rural commercial activities to be included in the plan. The definition is drafted as follows:

Rural Commercial means commercial activities that have a direct functional or operational need to locate in the Rural Zone or that service productive rural activities. It includes veterinary practices, wineries and wedding venues, adventure tourism, farm tourism, and includes ancillary activities.

- 13.4 The rural commercial definition is largely supported as being fit for purpose except for the inclusion of wedding venues. Wedding venues do not have a functional or operational need to locate in the rural zone and do not service rural activities. Wedding venues are not 'rural-related' non farming activities and as such should not be afforded equal priority with activities that are. Wedding venues may find it desirable to locate in the rural zone to take advantage of the rural character and amenity, however there is potential to increase reverse sensitivity effects on those activities that do have a functional and operational need to locate in the rural zone.

- 13.5 The recommended changes to Policy 5.3.3 are supported.

14. **Section 4.2 Intensive farming Policy 5.3.6**

- 14.1 FFNZ made a submission (680.65) seeking changes to better recognise the positive effects, whilst managing the adverse effects, of intensive farming.

- 14.2 The recommended changes, at para 161, are supported.

15. **Section 4.2 Intensive farming definition**

- 15.1 The FFNZ submission (680.253) raised concerns with the proposed intensive farming definition. It had potential to extend the meaning of 'intensive' farming beyond usual definitions and capture extensive farming activity, such as calf or lamb rearing and weaning in shelters, or feeding stock on standoff pads or in temporary feedlots, or break-feeding. This was a concern given the different planning approach which applies to intensive farming systems.

- 15.2 There were a large number of submission points made in relation to this definition, with the recommended changes working to strike the right balance between enabling the activity as legitimate within the rural zone against managing potential adverse effects.

- 15.3 From FFNZ perspective, with the exception of one issue, that balance seems to be struck relatively well, though it is appreciated that other submitters with more direct involvement with intensive farming activities, may hold a more informed opinion. FFNZ members predominately own and operate extensive farming systems.
- 15.4 The remaining issue relates to the exclusions to the definition. The purpose of the exclusions is to provide further clarity as to activities which are not intensive farming, para 176. The intention of the exclusions is supported, as are the recommended additions at (d) feed pads and stand-off pads ancillary to pasture-based farming and (e) horse stables. However there is concern that the purpose of the exclusion at (c) indoor rearing or weaning of livestock, is not clear and has the potential to create uncertainty as to what rearing or weaning activities are excluded and what are included within the intensive farming definition.
- 15.5 The relevant exclusion extract from the S42A recommended tracked changes for the Intensive farming definition is as follows:
- It excludes the following, provided the building is used for the purpose which it was built:
- (a) Woolsheds;
 - (b) Dairy sheds;
 - (c) Indoor rearing or weaning of livestock ~~calf pens or wintering accommodation~~ for less than 30 stock (except where stock are being reared for the replacement of breeding stock to be used on the same property) or under cover wintering accommodation;
 - (d) Feed pads and stand-off pads ancillary to pasture-based farming;
 - (e) Horse stables;
 - (f) ~~glasshouse~~ Greenhouse production or nurseries.
- 15.6 It is understood from the S42A reasoning at para 178 that the intent of the clause (c) exclusion is to distinguish between facilities that have a specific focus on rearing and therefore are more likely to be intensively used throughout the year, compared with facilities that are simply used for on-farm stock replacement that is ancillary to a pasture-based system and are therefore less intensive in nature.
- 15.7 The report writer questions whether the limitation would be better focused on the length of time the facility is used rather than the number of stock and purpose behind the rearing and asks for submitters to provide comment on this point.

- 15.8 Raising and weaning young stock is a usual, expected, and anticipated activity in the rural zone. It is appropriate for a district plan to enable this activity.
- 15.9 FFNZ would be more supportive of a length of time the indoor facility is being used as the proxy for intensity than arbitrary numbers of stock. It is the frequency of the event which creates the potential for unreasonable adverse effects that may need to be managed. FFNZ advise against applying a specified seasonal period, to recognise that different farming systems can raise and wean young stock at different times across the year, dairy farmers supplying winter milk for example will be calving March through to May not July through to September.
- 15.10 The S42A report suggested wording at para 178 '*where no individual animal is housed for more than 3 consecutive months in any calendar year*' has merit and is supported with the amendment underlined. Tying the condition to 3 consecutive months is important for certainty and links the activity to the rearing and weaning stage of an animal's life.
- 15.11 From FFNZ perspective limiting the activity to stock numbers is a blunt and arbitrary proxy for intensity, having the potential to capture rearing and weaning stock which will remain on farm to either replace breeding stock or provide store stock to be on-sold. Either activity is ancillary to a pasture based system and therefore not intensive in nature. There is concern that the '*reared as replacement breeding stock to be used on the same property*' exception to the stock numbers in clause (c), could be interpreted as being an activity not excluded from the definition, thereby being captured by the intensive farming definition inadvertently. The different exclusions provided for under (c) should be decoupled to avoid this potential interpretation issue and provide certainty to plan users.
- 15.12 FFNZ considers the following rewrite of the exclusion clause will address the matters raised by the report writer and provide more certainty for plan users, whilst providing opportunity to manage potential adverse effects associated with of rearing or weaning of livestock which meets an intensive threshold;
- It excludes the following, provided the building is used for the purpose which it was built:
- (a) Woolsheds;
 - (b) Dairy sheds;
 - (c) Indoor rearing or weaning of livestock where no individual animal is housed for more than 3 consecutive months in any calendar year;
 - (d) Indoor rearing or weaning of livestock where stock are being reared for replacement breeding or store stock on the same property;
 - (e) under cover wintering accommodation;
 - (d) Feed pads and stand-off pads ancillary to pasture-based farming;
 - (f) Horse stables;
 - (g) Greenhouse production or nurseries.

16. **Section 4.2 Intensive farming Activity rules 22.1.3 (RD1) and 22.1.4 (D3)**
- 16.1 FFNZ sought a number of changes to the rule's framework (680.187) including a new permitted activity rule and subsequent amendment to RD1.
- 16.2 The S42A did not accept the proposition but has made useful recommendations to 22.1.3 RD1 which are supported.
17. **Section 4.2 Reverse Sensitivity effects Policy 5.3.7**
- 17.1 FFNZ made a submission (680.66) in support of the overall intent of the notified policy but seeking amendments to ensure the plan accurately implements reverse sensitivity principles.
- 17.2 The S42A recommendation is to delete the Policy and insert a new Policy – Separation of incompatible activities, to streamline the planning framework and better articulate what is described as the 'three legs' policy approach to the issue.
- 17.3 FFNZ accepts the reasoning and supports the recommended changes.
18. **Section 4.2 Earthworks – definitions**
- 18.1 FFNZ made a submission (680.127) seeking changes to the definition of ancillary rural earthworks to better recognise the range of activities which require earthworks to support and are subsidiary to a pastoral farming system. These activities are usual and expected within the rural zone. They are undertaken incrementally, as and when required.
- 18.2 The S42A report provided reasoning in response to the submission at paras 229, 230 and 231. The reasoning is understood, and the recommendation to the definition supported.
- 18.3 FFNZ made a submission (680.136) seeking retention of the notified farm quarry definition.
- 18.4 The S42A report recommends changes based on Waikato District Council submission (697.387), these are understood and accepted.
19. **Section 4.2 Earthworks – Policy 5.3.5**
- 19.1 FFNZ made a submission (680.64) in support of the enabling intent of the policy but seeking amendment to provide some clarity and context with regards to the protection directive at 5.3.5(b)(iv).
- 19.2 Whilst the S42A report failed to appreciate the relief was in relation to 'inappropriate' earthworks not earthworks generally, it is accepted that

earthworks should be contained within the subject site, with other people's property and infrastructure respected.

19.3 FFNZ made a further submission (FS 1342.150) opposing the Department of Conservation relief to amend the earthworks policy to address the management of Kauri dieback disease (585.5)

19.4 In FFNZ view it is not appropriate for WDC to implement a planning response over and above what is being undertaken at the national and regional level without an appropriate risk assessment being undertaken.

19.5 The Department of Conservation raised a number of submission points on this matter, but the relief was not specific as to what the planning response should be. FFNZ was therefore unable to assess the impacts of the submission.

19.6 The S42A report recommends rejecting submission 585.5 and this is supported.

20. Section 4.2 Earthworks – Rule 22.2.3

20.1 WDC made a general submission point (697.764) to improve clarity with regards to the cascading intent of the rule framework. Whilst FFNZ understood the intention of the rules is for activities provided for in P1 to not be subject to the standards set out in P2, P3 and P4, similar improved clarity was sought with an amendment to 22.2.3.1(P2). The recommended changes as discussed at para 254 do make that intention clearer and are supported.

20.2 FFNZ made a submission (680.199) seeking explicit inclusion of other earthwork activities, which are typically undertaken in the rural zone, to be provided for under P1 and not subject to the general earthworks activity thresholds.

20.3 The S42A understood the purpose of the submission and provided reasoning at paras 268-271 that the matters raised can be better addressed via the ancillary rural earthworks definition. This reasoning is accepted and supported if the changes recommended to the definition of ancillary rural earthworks are accepted by the hearing panel.

20.4 It is important for ancillary rural earthworks to not get caught by rules that trigger the need for resource consent by threshold limits. The nature of the activities like fence hole boring or fixing a water leak for example are incremental and undertaken as and when required. It would difficult, if not impossible and unreasonable to determine the volume of earthworks moved

by each activity, and then aggregated to determine whether a consent was required or not.

20.3 FFNZ made a submission (680.200) in relation to Rule 22.2.3.1P2 (a) supporting the permitted activity status and accepting the conditions which may apply to earthworks more generally. The submission also sought deletion of 22.2.3.1 P2(a)(vi) on the basis that the condition relating to diverting and changing water flows, water bodies and drains relates to matters which are more appropriately regulated by the regional council. The same point was made in relation to 22.2.3.1P4(a)(vii).

20.4 The S42A reasoning at para 289 accepts this point with recommendations made to delete the condition from both rules. This is supported.

21. **Section 4.2 Permitted to Prohibited activities rules 22.1.1-22.1.6**

21.1 FFNZ made a submission (680.179) in support of the farming permitted activity rule, Rule 22.1.2 P7, asking for it to be retained as notified.

21.2 The S42A report recommends no material changes and this is supported.

21.3 FFNZ made a submission (680.194) seeking deletion of Rule 22.1.5 NC which is a default to non-complying status for any activities not listed in the plan.

21.4 FFNZ opposes this type of 'catch all' rule which we believe is poor planning practice and inconsistent with a number of Resource Management Act 1991 ('RMA') provisions. The RMA sets out a series of duties and restrictions. Under the Act, everyone has a duty to avoid, remedy, or mitigate adverse effects on the environment (Section 17). The duties and restrictions also mean that nobody can use natural resources such as water, air or the coast unless the RMA or a consent under it says so. No-one may discharge any contaminant to water or onto land in a way which might enter water. No-one may discharge contaminant into air or onto land without being expressly allowed. (Sections 9, 10, 10A, 20A, 12, 13, 14&15).

21.5 Under Section 9 no person may use land in a manner that contravenes a district rule unless the use is allowed by resource consent or the existing use right provisions set up under sections 10 and 10A.

21.6 The existing use right provisions are very clear that the land use must have been lawfully established, with the use the same or similar in character, intensity and scale to that before a rule became operative or proposed rule notified.

- 21.7 It is for this reason that the S42A report reasoning, at para 502, which advises that relying on s10 opens up the rural zone to a wide range of possible activities and associated effects that could seek to locate in rural areas in the future, is not supported. Section 10 does not legitimise new activities with new effects.
- 21.8 It is appreciated that not every eventuality can be covered with the use of activity lists, however Section 17(1) establishes that every person has a duty to avoid, remedy or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person, whether or not the activity is in accordance with a rule in a plan.
- 21.9 This duty to avoid, remedy or mitigate adverse effects along with the enforcement order and abatement notice options under Section 17(3) and the option to notify a plan change or variation provide WDC with appropriate opportunities to deal with any unforeseen resource management issues which may arise.
- 21.10 It is understood that there may have been some reluctance to rely to the plan change option to address issues that may have been 'missed' when the Schedule 1, Part 1, standard track planning pathway was the only process available. However, with the Schedule 1, Part 5, streamlined process now providing an alternative option, in certain circumstances, it negates the need for the excessive 'err on the side of caution' approach which Rule 22.1.5 NC5 establishes.

22. Section 4.2 Land use effects Policy 5.3.15 and Rule 22.2.1-3

- 22.1 FFNZ made a submission (680.71) seeking changes to Policy 5.3.15 to better address potential reverse sensitivity issues when addressing 'noise and vibration effects' in the rural zone.
- 22.2 There needed to be provision to allow for a reasonable level of noise associated with agricultural activity within the rural zone – both in daylight hours and through the night. There will be situations for example where farm machinery will be used for making hay or harvesting crops outside the hours prescribed in Rule 22.2.1.1 (P2); newly weaned animals will also be making noise outside of any specified hours. Such noises and vibrations must legitimately be expected in a rural zone.
- 22.3 There was concern that the notified policy would create unreasonable expectations of the amenity of the Rural Zone, and perpetuate reverse sensitivity issues with people unaccustomed to the rural environment complaining about normal farming activities and expecting those effects to be controlled in every instance.

- 22.4 The S42A recommended changes to Policy 5.3.15 based on the submission and this is supported.
- 22.5 FFNZ sought retention of the notified definition of farming noise (680.135).
- 22.6 The S42A report recommends a change to the definition which is not supported. The purpose of the proposed changes is to limit the definition of farming noise to apply to mobile equipment and machinery only. The noise effects generated by fixed equipment and machinery are part of the usual and expected effects within a rural environment. The proposed changes are inconsistent with the approach being taken to manage reverse sensitivity effects which places the onus on new and sensitive activities to mitigate potential reverse sensitivity effects on lawfully-established rural activities.
- 22.7 Further, no specific analysis has been undertaken to determine whether fixed equipment and machinery could meet the stated noise standards at the site boundary, and if not, whether there are any reasonable and practicable options available to enable those standards to be met.
- 22.8 The S42A reports recommends further changes based on other submitters relief, with the exception of the issue outlined above those changes are supported.
- 22.9 FFNZ made a submission (680.198) in support of Rule 22.2.2 P1 in support of clause (b) which is consistent with the stated policy approach and gives effect to reverse sensitivity principles, but seeking deletion of clause (c) on the basis that it was inconsistent with this approach and failed to appreciate the temporary nature of any adverse effects created from vehicles working at night and the necessity of the operation.
- 22.10 The S42A report accepts the position and agrees that uncertainty is created by clause (c), it is recommended to be deleted. This recommendation is supported.
- 22.11 FFNZ made a submission (689.210) looking to have signs required by other legislation permitted under Rule 22.2.6.1 P1. Signage on private property can often be required under the HSNO Act 1996, the Health and Safety in Employment Acts, and The Biosecurity Act 1993.
- 22.12 The S42A recommended changes, including the new definition of 'official sign' meets the relief sought and is supported.

23. Section 4.2 Land use Building - Rural Height rules 22.3.4.1-4

- 23.1 FFNZ sought deletion of Rule 22.3.4.1 P2 restricting building height in a significant amenity landscape ('SALs'). The deletion of the rule is essentially a consequential outcome of the position held with respect to the proposed planning response for SALs more generally.
- 23.2 The matter will be raised in more detail in Hearing 21B- Landscapes, however by way of summary, FFNZ consider that rules to maintain and enhance amenity values relative to the rural zone are enough to meet WRPS direction for SALs identified over pastoral farming landscapes. Provisions designed to prioritise an amenity landscape over and above the activities which contribute to those values are opposed.
- 23.3 WRPS Policy 12.3 direction and Implementation Method 12.3.1 requires areas of amenity value to be identified and those values maintained and enhanced. There is also the requirement, as per IM 12.3.1(d) when recognising and providing for areas of amenity value, consideration shall be given to the changing and evolving nature of land management practices that means the visual amenity values may also change.
- 23.4 The FFNZ submission seeks to introduce a new approach to implement PDP Policy 3.4.3. The alternative would retain the identified SALs as an 'alert layer', delete all general SAL rules and enable a targeted assessment of the adverse effects of the proposed activity against the identified SAL values at the time land use change triggers a discretionary activity or non-complying activity status.
- 23.5 It is understood that the purpose of the rule is to manage the adverse effects of buildings and structures on identified landscapes, however the proposed rules framework makes no distinction between development which is appropriate and that which may have inappropriate effects on the associated values of the SAL. It is unreasonable for normal rural related activities such as construction of farm buildings that would, but for the SAL overlay not breach height standards, to be subject to the expense and time delays associated with discretionary resource consents.
- 23.6 The S42A report reasoned through these issues and the general height thresholds at paras 606, 607, 614 and 615. A number of recommendations are made to work through the concerns of submitters, and these are acknowledged. That said the position held by FFNZ with respect to the new implementation method is retained.

24. Section 4.2 Land use Building – Building coverage Rule 22.3.6

24.1 FFNZ made a submission (680.224) seeking an amendment to the rule to improve clarity and increase certainty. There was concern that the thresholds were set too low when applied to farming and horticulture buildings.

24.2 The S42A report recommends changes to Rule 22.3.6 and these are supported.

25. Section 4.2 Land use Building – Building setbacks water bodies Rule 22.3.7.5

25.1 FFNZ made a submission (680.231) seeking amendments to change the all-encompassing nature of the notified rule. Some buildings like pump sheds have a functional and operational need to be closer than the proposed setbacks.

25.2 The S42A recommended changes to meet other submitters relief. It is considered that these changes will sufficiently address FFNZ concerns and are supported.

26 Section 4.2 Building setbacks - Environmental Protection Area Rule 22.3.7.6

26.1 FFNZ made submissions (680.232 and 680.233) seeking deletion of the rules framework that applies to Environment Protection Areas. It was unclear from the PDP what Environmental Protection Areas are and what the purpose of identifying them is. There is no mention of these areas within the policy framework and no definition provided in Chapter 13. Without this information a submitter is unable to assess the merits or otherwise of the proposed planning approach.

26.2 The S42A provides some detail at para 702 to explain that the term 'Environmental Protection Area' has a very discrete application to a lakeside development in Te Kauwhata only. If this is the case then the FFNZ has little ongoing interest in the matter, however given the generic nature of the term, it is suggested that the opportunity to taken to introduce a definition into the plan which confirms the understanding of the plan writer and provides certainty to plan users.

RURAL SUBDIVISION

27. Prohibited Subdivision – Rule 22.4.1.1 PR1- PR4

27.1 FFNZ made a submission opposing the use of prohibited activity status as being unnecessary and unduly restrictive. The submission is not registered

to this hearing topic and has not been included in the planner's analysis, however there were many other like-minded submissions on this point which were addressed.

27.2 The S42A recommends changes to the suite of rules and these are supported with the exception of the unchanged activity status. The planning report at para 131 addresses the numerous requests to step down the activity status from prohibited to non-complying or discretionary. The WRPS Policy 14.2 directive to 'avoid a decline in availability of high-class soils' and the King Salmon interpretation that 'avoid' means 'prevent the occurrence of' is used as the justification or rationale for recommending retention of the prohibited status.

27.3 It is important to view the suite of the WRPS direction in relation to high class soils in its entirety rather than edited extracts. The suite is provided as follows:

Objective 3.26 High class soils

The value of high-class soils for primary production is recognised and high class soils are protected from inappropriate subdivision, use or development. [emphasis added]

Policy 14.2

Avoid a decline in the availability of high-class soils for primary production due to inappropriate subdivision, use or development. [emphasis added]

Implementation methods 14.2.1 Manage the form and location of development

District plans shall give priority to productive uses of high-class soils over non-productive uses including through:

- a) restricting urban and rural-residential development on high class soils;
- b) restricting the level of impermeable surfaces allowable on high class soils;
- c) facilitating the return or continued availability of high class soils to primary production activities, for example through amalgamation of small titles;
- d) directing urban and rural-residential development onto soils of lesser versatility where there is an option to do so;
- e) accepting that where high class soil removal or disturbance cannot be avoided, the soil should be used to rehabilitate the land or enhance soils elsewhere in the region in order to retain soil versatility and productive capacity; and
- f) the development of growth strategies.

27.4 The focus of the WRPS is on protecting high class soils from inappropriate subdivision, use and development. The directive is to avoid inappropriate not appropriate subdivision, use and development. The WRPS Objective 3.26 and Policy 14.2 provide for a planning approach that enables appropriate subdivision, use and development of high class soils. It is for the district plan to determine what that appropriate use setting may be. Help in that regard is provided from Implementation method 14.2.1.

27.5 The S42 report prepared by Mr Cleese for the Rural Zone component discusses the WRPS directions for high class soils and specifically Objectives 3.26 and Policy 14.2 and has relevance to the point being made. Mr Cleese summarised the purpose of the WRPS directions at para 31,page 21:

The policy therefore has at its primary purpose the need to maintain such soils for primary production. Alternative activities are contemplated as potentially being possible, provided that they are not 'inappropriate'.

28. General comment on subdivision

28.1 FFNZ general position with regards to subdivision is on the protection of productive land to ensure primary production can continue to ensure the long-term viability of the agricultural sector.

28.2 However this general position is balanced against the fact that land needs people, its farmers and growers, to make the land productive. Farming is often a multi-generational enterprise, with the land asset providing a place for both home and business. This means farmers value flexible policy settings which enable farm succession planning to occur, provides for practical boundary relocation options, and incentivises win win opportunities to create public good environmental outcomes, while at the same time understanding the issues created by fragmentation of productive land.

28.3 As an organisation FFNZ believes that council subdivision and development policies and planning should provide for managed growth in rural communities. While it is acknowledged that the loss of productive land can impact on a district's economy, there is also a need to recognise that farmers undertake small lot subdivision to provide for farm succession, dispose of surplus dwellings and for providing on-farm accommodation for employees.

28.4 Considered, well managed growth in rural communities provides for diversity and vibrancy in rural areas, sustains essential community infrastructure, and provides employment flexibility and opportunities not to mention that growing community ensures a growing rating base.

28.5 The FFNZ submission on the notified plan was broadly supportive of the approach being taken, in particular the 20 hectare minimum parent lot size, enabling boundary readjustment, prioritising cluster or hamlet development and providing incentivisation to create win win environmental outcomes.

29 Specific comment

Minimum lot size

- 29.1 The S42A report recommends doubling the minimum lot size for a property to be eligible for subdivision. The purpose of the change is to reduce the number of potential lots and subsequent impact on land fragmentation, para 177.
- 29.2 The PDP set the parent title size at 20ha after considering options and undertaking a section 32 report for the Rural Zone, para 175. FFNZ supported the notified area size in relation to Rule 22.4.1.2 RD1 and does not support the recommendation to reduce the eligibility criteria. Being eligible to apply for a resource consent does not, in and of itself, cause a landowner to utilise the option and it does not guarantee the outcome.

Consent status

- 29.3 FFNZ made submission points (680.236 and 680.237) seeking a step down in the activity status from restricted discretionary to controlled for 22.4.1.2 RD1 and from non-complying to discretionary for 22.4.1.2 NC1.
- 29.4 The S42A reports recommends rejecting this relief at para 251. The controlled status would not give council the opportunity to decline subdivision when it may be appropriate to do so, para 224 and the default to non-complying status sets the stringent approach required to align with the higher order documents of the WRPS, para 225.
- 29.5 The point with regards to controlled activity status is understood and accepted. However as mentioned above, in FFNZ view the WRPS direction does not require such an onerous consent setting. Implementation method 14.2.1 requires council to give priority to productive uses of high class soils over non-productive uses by restricting urban and rural-residential development on high class soils (clause a) or directing urban and rural-residential onto soils of lesser versatility where there is an option to do so (clause b).
- 29.6 The WRPS direction is being implemented under the 22.4.1.2 RD1(a)(v) condition. Once the area to high class soil ratio is breached a default to discretionary status provides WDC with full decision-making powers with regards to the application. From a plan user's perspective, a discretionary consent which provides opportunity for a full range of matters to be considered, is usually publicly notified and may require a hearing, is considered to be a restrictive consent pathway.

- 29.7 FFNZ does not support the recommendation to retain the default from Rule 22.4.1.2 RD1 to non-complying status.

Conservation lot Subdivision

- 29.8 FFNZ made a submission (680.240) supporting the intention of the provision except for the restriction under clause (a)(iii). The clause reduces the eligibility of the conservation lot to significant natural areas which are not already subject to a conservation covenant pursuant to the Reserves Act 1977 or the Queen Elizabeth II National Trust Act 1977 ('QEII). The outcome of the clause is that landowners who have been proactive are not provided with the same recognition and reward for the public good services being provided.
- 29.9 The conservation lot subdivision can be retrospective, clause (viii) ensures there is no double dipping and this is supported. The FFNZ relief sought to further strengthen this outcome by including the wording underlined below;

Rule 22.4.1.6 Conservation lot subdivision clause (a)(iii)

The Significant Natural Area is not already subject to a conservation covenant pursuant to the Reserves Act 1977 or the Queen Elizabeth II National Trust Act 1977, unless the landowner who set up the covenant (or their successors in title) had not previously subdivided an equivalent qualifying conservation lot in exchange for such protection covenant(s);

- 29.10 The S42A report does not respond directly to the FFNZ submission, the point made in relation to subdivision entitlement for previously protected sites is not registered in the section 12.7 analysis table on page 227. Reasoning is provided in relation to other submissions. At para 468 it is stated that in relation to cases where legal protection has already occurred but without subdivision having been undertaken as a benefit, the report writer does not agree that it should now qualify as the SNA has already been legally protected and there is no benefit for the district, only the landowner.
- 29.11 Legally protected SNAs will continue to accrue ecosystem benefit to the district in perpetuity regardless of what financial reward or hardship accrues to the private landowner. The submission point was seeking to recognise and reward those private landowners who have chosen to undertake that worthy and positive course of action.
- 29.12 A further point made in the submission relates to other methods to encourage the protection of suitable natural features through incentives such as additional subdivision rights that can be transferred to another location, if the locality where the natural feature in question is situated, is too sensitive to allow conservation lots in that location. In such cases, FFNZ submit that it should be feasible to enable some form of Transferable Development Right

to create one or more qualifying conservation lots elsewhere in exchange for the protection of a natural feature, by way of introducing a new clause into 22.4.1.6 RD1 as follows:

Rule 22.4.1.6 Conservation lot subdivision new clause (b)

b) Where subdivision to create a conservation lot may be inappropriate due to the sensitive nature of the location, or unsuitability due to natural hazard risk or traffic safety hazard risk or inability to service the lot with on-site potable water and fire-fighting water supply or on-site domestic sewage treatment and disposal, landowners may apply to transfer an entitlement for a qualifying conservation lot to more appropriate location.

29.14 The S42A report does not respond directly to the submission point though it is recorded as being recommended for rejection at section 12.8, para 469.

29.15 FFNZ retains the position that the amendments sought for clause 22.4.1.6(a)(iii) and new clause (b) are appropriate and introduce a more equitable planning approach.

Subdivision within identified areas

29.16 FFNZ made a submission (680.244) seeking deletion of extra subdivision rules applying to land with natural character and landscape overlays, Rule 22.4.5 D1. The submission point could be best described as a consequential one, taken until there was more confidence in the overlay areas which had been identified in the PDP.

29.17 It has been noted in previous submission points that there is no Outstanding Natural Character Area layer or High Natural Character Area layer identified on the notified planning maps, which rendered the terms superfluous. Matters relating to landscapes have been assigned to Hearing 21B. The S42A report for that topic has recommended introducing Natural Character Area schedules that identify the Outstanding Natural Character Areas and High Natural Character Areas within the district. If the recommended schedules are introduced into the plan FFNZ will no longer advance the submission point.



Hilary Walker
15 September 2020