



Proposed Waikato District Plan (Stage 1) Hearing topic 21A – Natural Environments

Highlights package

16 November 2020

In accordance with paragraph 28 of the First Directions from Hearing Commissioners, dated 21 May 2019, the following ‘highlights package’ has been prepared to summarise Federated Farmers position and remaining concerns as they relate to this hearing topic.

The remaining concerns can be categorised into three broad topics: 1) SNA identification process, 2) Kauri Dieback Disease, and 3) land use controls

1. SNA identification process

- 1.1 To start with the positives, most parties seem to broadly agree the best way to meet Resource Management Act 1991 (RMA) responsibilities and the Regional Policy Statement (WRPS) direction, is to a) identify SNA sites using the RPS criteria, b) map the sites, and c) apply targeted regulatory and non-regulatory implementation methods to protect the values of the sites. The certainty created by this approach is recognised as being important for both resource users and regulators alike.
- 1.2 There is even broad agreement as to who bears the brunt when, despite best intentions, the identification process does not go as well as it should. The views seem to diverge, however, over what and if anything should be done to redress that burden, ensure responsibility and risk lies with the appropriate party and ensure landowners are not stuck bearing the burden of a problem they did not create.
- 1.3 Whilst we understand and support the goal WDC is working towards, there are key parts put forward to manage the transition or interim stage between now and until some confidence in the identification process can be established, which are not supported. Specifically, this relates to what we consider are unduly onerous consent triggers and implementation uncertainty.
- 1.4 Federated Farmers strongly believes the proposal we are putting forward to work through the issues identified in the 42A report, is a practical, logical and equitable way forward which strikes the right balance between resource use and resource protection. The options put forward in the s42A report, reaffirmed in the rebuttal evidence and advanced by other parties, like the Regional Council and Department of Conservation, does not achieve those outcomes because all indigenous vegetation and habitat is essentially elevated to a significance status until proven otherwise.

- 1.5 The Council's rebuttal evidence recommends including a policy to provide assistance to landowners when an ecological assessment may be required (para 129). The new policy would establish that council, jointly with WRC, will meet the costs of an ecological assessment to evaluate whether an area meets SNA criteria or not. Whilst the recommendation is supported in principle, Federated Farmers has concerns with how the policy will be implemented. Where this type of approach has been successful in other council's the assessment process is triggered outside the consent application process and generally when a land use change is being contemplated. The ecological assessment is used to help inform the landowner of the merits or otherwise of lodging a resource consent and can ideally be used to develop an assessment of environmental effects.
- 1.6 Further, consent triggers need to be set to enable some development activities to occur on the understanding that some give and take is required to share the burden during the transition period. As stated in previous hearing statements, if all the risk is transferred onto private landowners there is little to incentivise Council to prioritise the workstream and ensure this remains an interim measure and doesn't become the default approach for the longer term. Parties must remember that it takes more than lip-service to develop the trust and landowner buy-in which everyone acknowledges is required to achieve the best environmental outcomes.
- 1.7 It is unclear in the rebuttal mark-up version how the suite of planning provisions come together to achieve mutually beneficial outcomes for the council and landowners. When considered in context of the recommended changes to the definition of significant natural area, an assessment to determine if an area meets the WRPS criteria will be required before any certainty over which rules framework applies can be provided.
- 1.8 A further concern relates to material differences in the wording of the new policy which is proposed in para 129 of the rebuttal evidence and the recommended amendments to Chapter 3 track changes new policy 3.1.2D which seems to only provide for the costs of the ecological assessment to be met by the Councils if the site is determined to meet the significance criteria.
- 1.9 Federated Farmers is concerned that there is little distinction being made between the planning response which applies to SNAs and the indigenous biodiversity values which do not meet a significance threshold. A table has been prepared to outline the proposed approach for usual earthworks and vegetation clearance activities on farm and is included with this summary to help articulate this point. From our perspective this is a very one-dimensional response which does little to implement the two tiered approach which is stated as being applied. A meaningful two-tiered approach is consent with best practice methods designed to meet a council's section 6(c) protection responsibilities and the broader regard given to section 7 maintenance and enhancement matters.

2. Kauri Dieback Disease

- 2.1 Another positive can be found with this issue. All parties agree keeping Kauri dieback disease out of the Waikato district is an important goal, the difference of opinion lies with how that can be best achieved and whether district plan land use controls are a necessary part of the response.

- 2.2 Whilst Federated Farmers accepts land use controls to manage kauri dieback disease can fall within the functions of the district council, the question is whether introducing the provisions as proposed are appropriate at this time.
- 2.3 Federated Farmers lodged rebuttal evidence in response to the Department of Conservation hearing evidence, for the purpose of opening the conversation up to bring the wider regional and national biosecurity response into perspective. Federated Farmers is concerned the Department of Conservation is looking to use district plan regulations to, in part, shift responsibility and risk onto landowners more directly than what has been contemplated within the wider regional and national biosecurity responses.
- 2.4 Federated Farmers is aware that little priority has been given to the national response over the previous 18 months, with the proposed National Pest Management Plan remaining in draft form since consultation early 2019. However, we understand from pre-election promises that Labour is going to progress the National Pest Management Plan, the strongest form of protection under the Biosecurity Act, to combat kauri dieback, and invest an additional \$32 million over five years.
- 2.5 There are currently three NPMPs in place, for Psa-V in kiwifruit, Bovine Tuberculosis and American Foulbrood in bees. The government advises these have been extremely useful in ensuring there is coordinated strategic planning, and states this is what is needed to stop the spread of kauri dieback.
- 2.6 Federated Farmers is asking Waikato District Council to hold off implementing land use controls until the coordinated and strategic approach which has been reprioritised, with funding allocated to advance, has been rolled out. There seems little risk in waiting given evidence from Mr Turner for the Waikato District Council advises that most of the natural kauri stands in the district are found within the public estate (para 4.4).

3. Land use controls

- 3.1 Federated Farmers acknowledges some useful amendments have been recommended to the rules framework for some farming activities. The earthworks associated with fencing, tracking, and water reticulation in particular have been recognised as reasonable and this is supported. However, the vegetation clearance associated with putting in such infrastructure is not recognised or enabled, to the extent that any new on farm infrastructure which may require removal of any indigenous vegetation, regardless of the biodiversity value, will require a restricted discretionary resource consent.
- 3.2 Members have strongly expressed their concern that the consent triggers will have a limiting effect on farming practice. Potentially prevent further development of useful rural resources, frustrate health and safety improvements needing to be made and trigger the need for a restricted discretionary resource consent for anticipated and expected activities in the rural zone and those which may be required to meet regional and national planning directions.

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APPENDIX

PWDP potential earthworks and vegetation clearance rules framework – incorporating Council rebuttal position for Natural environment hearing 20 Nov 2020

Rural zone rules

Activity	Inside an SNA	Outside an SNA
Earthworks for conservation activity	Permitted – no conditions (22.2.3.1 P5)	Permitted – subject to threshold conditions (22.2.3.1 P2)
Earthworks for water reticulation (22.2.3.1 P5)	Permitted – no conditions (22.2.3.1 P5)	Permitted – no conditions (22.2.3.1 P1 (a))
Earthworks to maintain existing tracks, fences, drains	Permitted – no conditions (22.2.3.1 P5)	Permitted – no conditions (22.2.3.1 P1 (a))
Earthworks that don't comply with rule P1-P5 (22.2.3.1 RD1)	Restricted discretionary (22.2.3.1 RD2)	Restricted discretionary (22.2.3.1 RD1)
Earthworks for purposes other than maintaining existing tracks, fences or drains	Restricted discretionary (22.2.3.1 RD2)	Permitted – no conditions if ancillary rural earthworks Permitted – with conditions if other (22.2.3.1 P2-P4))
Earthworks within kauri root zone	Permitted – with conditions (22.2.3.1 P5)	Restricted discretionary (22.2.3.1 RD1)
Vegetation clearance to maintain existing farm drains	Permitted (22.2.7 P1(a)(iii))	Permitted (22.2.8 P1(a)(iv))
Vegetation clearance to maintain existing tracks and fences	Permitted (22.2.7 P1(a)(iv))	Permitted (22.2.8 P1(a)(iii))
Vegetation clearance for conservation activities eg fencing and pest management	Permitted (22.2.7 P1 (a)ii) and (22.2.7 P1(a)(vi))	Permitted (22.2.8 P1(a)(v)) and (22.2.8 P1(a)(ix))
Vegetation clearance for conservation activities eg new cycle paths and walkways	Permitted (22.2.7 P1(a)(vi))	Permitted (22.2.8 P1(a)(ix))
Vegetation clearance for new fencing, tracks, drains, water reticulation	Discretionary (22.2.7 D1)	Restricted discretionary (22.2.8 RD1)
Removal of manuka or kanuka	Permitted – with conditions (22.2.7 P2) and (22.2.7 P7)	Restricted discretionary (22.2.8 RD1)
Clearance which does not meet permitted activities	Discretionary (22.2.7 D1)	Restricted discretionary (22.2.8 RD1)

There is very little distinction made between the land use controls for earthworks and vegetation clearance activities that apply inside or outside an SNA. The outcome is a position that essentially treats all indigenous vegetation is significant until proven otherwise.

Of note:

- a) vegetation clearance can occur for new public infrastructure like cycle paths and walkways within an SNA but not for new farming infrastructure like fencelines, tracks or water

reticulation. Difficult to understand why the adverse effects created by the public activity are acceptable but comparable effects for private purposes are not.

- b) Earthworks within kauri root zone is permitted within an SNA but Restricted discretionary outside an SNA. Seems to be a perverse outcome.
- c) Kanuka and manuka can be cleared (subject to permitted threshold conditions) within an SNA but restricted discretionary outside an SNA
- d) Clearing **any** indigenous vegetation for pasture maintenance outside an SNA will require a restricted discretionary resource consent. This will apply to single trees.
- e) An activity like putting in water reticulation, or fencing infrastructure wont need a consent for the earthworks part of the activity but will for the vegetation clearance part.

Relevant definitions

Ancillary rural earthworks -

(a) Means any earthworks or disturbance of soil associated with: cultivation, land preparation (including establishment of sediment and erosion control measures), for planting and growing operations;

(b) harvesting of agricultural and horticultural crops (farming) ~~and forests (forestry)~~; and

(c) maintenance and construction of facilities typically associated with farming ~~and forestry~~ activities, including, but not limited to, farm/~~forestry~~ tracks, roads and landings, stock races, silage pits, offal pits, farm drains, farm effluent ponds, feeding pads, fertiliser storage pads, airstrips, helipads, post holes, fencing, drilling bores, stock water pipes, water tanks and troughs, the maintenance of on-farm land drainage networks, and erosion and sediment control measures.

Conservation activities -

Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, research and monitoring, the establishment, maintenance or upgrading of public walking or cycle tracks, interpretive and directional signs, accessory buildings including those for tourism, interpretation or education purposes and the provision of access for plant or animal pest m