

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

UNDER the Resource Management Act 1991

**IN THE MATTER of Hearing 21B: Landscapes (Proposed Waikato District
Plan) submissions and further submissions**

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

20 August 2020



169 London Street
PO Box 447
Hamilton
Telephone: 0274 360 560
Email: hwalker@fedfarm.org.nz

Introduction

1. My name is Hilary Jean Walker. I am a Senior Policy Advisor with Federated Farmers of New Zealand ("**FFNZ**").
2. I have reviewed the S42A report prepared by Jane Macartney dated 6 August 2020, for Hearing 21B–Landscapes in relation to the Proposed Waikato District Plan ("**PWDP**"). This report addresses matters to which FFNZ made submissions (submitter 680) and further submissions (FS1342).
3. The contents of this statement are made in my role as Senior Policy Advisor, in response to some of the key recommendations made on the submission points that have been assigned to this hearing topic.
4. To assist the Panel the statement follows the same structure as the planning report.

PART A - OBJECTIVE AND POLICIES

Section 3.3 Outstanding Natural Features and Landscapes

5. FFNZ submitted (680.38) in support of Objective 3.3.1. The S42A Report recommends retention of the objective, section 5.2.4 para 165(c), and this recommendation is supported. FFNZ understands the objective meets RMA obligations and Waikato Regional Policy Statement ("**WRPS**") direction and recognises that not all development is to be avoided, rather the emphasis is on that which is inappropriate. We seek changes to the policies to better implement this objective.
6. FFNZ made a further submission (FS1342.4) opposing the relief sought by Geoscience Society of New Zealand (8.5) to include additional assessment criteria into Section 3.3 to identify outstanding natural features ("**ONFs**") using Auckland and Northland examples. In our view the WRPS provides the appropriate identification framework and local context with regards to ONFs for the Waikato. There is no need to replicate other regional approaches.
7. The S42A Report recommends rejecting the submission, section 5.2.4 para 165(h), on the basis that the additional criteria do not look to add any extra value and any new sites would require a plan change or variation. This recommendation and reasoning are supported.
8. FFNZ made a further submission (FS1342.3) opposing the relief sought by Geoscience Society of New Zealand (8.4) to add more policies and rules to protect ONFs and provide for potential identification of other sites. In our view the notified plan, incorporating amendments sought by FFNZ, will provide appropriate protection for the identified ONFs. FFNZ also considers that it would be inappropriate to use the submission process to schedule new sites without direct landowner consultation.

9. The S42A Report recommends rejecting the submission, section 5.2.4 para 165(oo), on the basis that focused landowner engagement is a necessary prerequisite and questioned whether some of the geopreservation sites would meet an outstanding status (para 144). This recommendation and reasoning are supported.
10. FFNZ made further submissions (FS1342.213 & 1342.231) opposing relief sought (780.21 & 825.21) to add policies and rules to protect ridgelines from development.
11. The S42A Report recommends rejecting the submissions, section 5.2.4 para 165(p) and para 165(r), on the basis that ridgelines which are part of an ONF/ONL will be protected and those that don't meet the standard are subject to the land use controls appropriate for the underlying zone. This recommendation and the reasoning that not all ridgelines should be treated as outstanding is supported.
12. FFNZ made a submission (680.39) seeking changes to Policy 3.3.2(a),(b),(c) to apply the recognition of specific infrastructure and activities, listed as attributes of identified landscapes, more broadly than just to the 'existing' infrastructure and activities. In FFNZ's view, the policy framework is broad in nature and should recognise the type of water storage infrastructure and farming activities which contribute to the attributes of these landscapes in a general sense, rather than restricting recognition specifically to what was existing at a set period in time.
13. The S42A Report recommends the submission is rejected, section 5.2.4 para 165(ee), on the basis that it could weaken the policy framework and dilute the test of adverse effects, para 154. Further, at para 159, in response to submission 433.40, the recommendation is to remove reference to existing pastoral farming activities on the margins of these areas from the policy. It is reasoned that the attribute incorrectly elevates the importance of pastoral farming located adjacent to and outside an identified landscape.
14. FFNZ does not agree with the recommendation, section 5.2.4 para 165(dd), or reasoning at para 159 and para 166, which has incorrectly assumed the attribute applies to activities outside the site rather than being part of and within an identified site. The margins of areas can still be within the overlay, just at the outer extent of it. The FFNZ submission was working with the attributes that had been identified in the notified policy. It is our view that including pastoral farming activities on the margins of the identified areas was a considered approach, taken to recognise that identified sites can be part of larger, more fluid landscapes. We accept it can be difficult to ringfence a discrete area with the certainty which would be ideal in a planning sense and useful from a landowner's perspective and appreciate the pragmatic approach taken the notified policy.
15. If identified landscapes include pastoral farmland, albeit at the margins, then the policy framework ought to account for the fact that farming is an appropriate use and

development of that land and protect those attributes against other inappropriate use and development, just as it does for the other attributes listed.

16. Perhaps the best way to clarify the intent of the policy is to remove the wording '*on the margins of these areas*', from 3.3.2(a)(vii), (b)(vi) and (c)(v) that way there is no confusion as to whether it relates to activities which are taking place within or outside of the identified landscapes.
17. FFNZ made a submission (680.40) seeking changes to Policy 3.3.3(a) to explicitly refer to new activities and narrow the avoidance requirement to 'inappropriate' earthworks. In our view this would give better effect to the RMA and WRPS direction.
18. The S42A Report recommends rejecting the submission, section 5.2.4 para165(kk), on the basis that district plan policy is by its nature future focused and that including the reference to inappropriate earthworks into clause (a)(iv) is unnecessary because the policy header already refers to inappropriate use and development, para162.
19. The recommendation to reject the amendment to refer to 'new' development is understood and accepted. However, the reasoning which is applied to the recommendation to reject the application of clause (a)(iv) to inappropriate earthworks rather than earthworks more broadly is not. Without narrowing the application of clause (a)(iv) the policy setting is that all earthworks have adverse effects which must be avoided. This approach does not implement Objective 3.3.1 and is unreasonably onerous within the context of identified landscapes over pastoral farmland.

Section 3.4 Significant Amenity Landscapes

20. FFNZ made a submission (680.42) seeking amendments to Objective 3.4.1 to limit the extent of Significant Amenity Landscapes ("**SALs**") to public land only. The S42A Report recommends rejection of this submission, section 5.2.10 para 202(d), on the basis that SALs were identified based on expert analysis and that no distinction is made based on land ownership, para 179.
21. This recommendation is understood, the submission point could perhaps best be described as an alternative option. The concerns FFNZ has with planning response in relation to SALs can be addressed within the implementation framework.
22. FFNZ made submissions on Policy 3.4.2 (680.43) and Policy 3.4.3 (680.44) and more specifically the associated rules, to change the proposed planning response. The alternative we suggest, is a more efficient and effective way to implement the WRPS and wider central government policy direction.
23. FFNZ submit that the WRPS doesn't require rules to maintain and enhance amenity values, over and above zoning land use controls, to implement Objective 3.21, Policy 12.3 and the direction of Implementation method 12.3.1(d) which states *when recognising and providing for areas of amenity value, for consideration to be given to*

the changing and evolving nature of land management practices that mean the visual amenity value may also change. Setting earthwork thresholds to trigger consent for new tracking, fencing or water reticulation within farmland is designed to lock a rural amenity landscape into a static ideal which is inconsistent with this direction.

24. In our view there is an unnecessary overlap with Rural Zone rules that have been developed, amongst other things, to maintain and enhance amenity values through provisions for managing building bulk and location, subdivision, earthworks, and vegetation clearance. We oppose provisions designed to prioritise an amenity landscape over and above the activities which contribute to those values.
25. A perverse outcome is also created when land use restrictions aimed at enhancing rural amenity have the potential to work against other environmental priorities such as improving water quality or protecting significant natural areas for example. New central government regulations designed to make significant improvements to water quality are going to require an increase in the earthworks being undertaken for stock exclusion fencing, putting in water reticulation infrastructure, new culverts and bridges and the new tracks required to reconnect the farm and ensure safe passage for farm vehicles. More will be coming with regards significant natural areas and the stock exclusion and pest management goals which are being sought for biodiversity purposes. Rather than placing extra burden with undue delay, cost and uncertainty in having to seek resource consents for farmers with SALs, we are proposing a planning alternative that works with, not against, broader regional and national policy direction.
26. We believe the right balance can be struck by recognising all types of farming activity as contributing to rural landscape amenity, and only requiring resource consent when a departure from the normal and expected activities within the zone is proposed.
27. FFNZ submit that implementing the RMA section 7, and WRPS policy direction can be achieved when discretionary activity or non-complying activity status is triggered because of other resource consent requirements in the proposed District Plan. An assessment of the proposed activities potential adverse effects can be considered, if appropriate, at that time, against significant landscape amenity values and the ability to avoid, remedy or mitigate those effects.
28. The notified objective and policies do not require any material change as a consequence of the approach FFNZ is proposing. We suggest that a note included into Policy 3.4.3 which signals the new implementation method is really all that is required. The note would state:

There are no rules relating specifically to Significant Amenity Landscapes in Chapter 22. However, where discretionary or non-complying activity resource consents are required under rules of this Plan, and where those activities are located within significant amenity landscapes, the proposed activities will be assessed in terms of their consistency with this policy.

29. There are several other Councils who have adopted this type of 'alert layer' approach for landscape and character values that do not meet RMA Section 6 status.
30. The S42A report did not respond directly to the concept, focusing instead on the proposed changes to policies and rules in isolation. At para 190 an assumption is made that we incorrectly stated there were no rules in the rural zone for SALs rather than understanding the relief sought was in relation to a new approach.
31. It is accepted that some useful recommendations have been made, particularly with regards to the new permitted activity Rule 22.2.3.4 P1, which decouples earthworks for existing activities from the thresholds, and the step down to restricted discretionary activity status at Rule 22.2.3.4. However our position remains that adopting an approach which essentially uses identified SALs as an alert layer for extra consideration when land use change triggers discretionary or non-complying resource consent within the rural zone is the most appropriate method to implement the WRPS. It has the further benefit of helping rather than hindering land use activities like earthworks for new fencing and tracking which will be required to meet national policy objectives for freshwater and potentially indigenous biodiversity going forward.

Section 3.5 Natural character

32. FFNZ made several submissions points (680.46, 680.47, 680.48, 680.48, 680.49) in relation to the natural character section. We are broadly supportive of the S42A Report recommendations in response, particularly the addition of Policy 3.5.4 (b) which related to matters raised in submission point 680.49.

PART B – RULES

Earthworks in landscape and natural character areas

33. FFNZ made submissions on the notified rules to provide scope to implement the proposed new SAL approach and more generally to seek a more practical and enabling planning response. FFNZ consider that the District Plan must focus on the values of the features and landscapes to recognise that landscapes across rural areas are changing all the time and that the working nature of the farming activities occurring in that space are part of that values system.
34. To place arbitrary earthworks thresholds as the trigger for consent is a relatively blunt planning technique. We submit that the size of earthworks allowed per site in any 12-month period is far too restrictive to have meaning for farming activities. Earthworks can be required for a number of reasons some of which are outside a farmers control for example to repair slip or flood damage. It is unduly onerous to require resource consent to mitigate damage from a natural event. Earthworks can be required to maintain and construct tracks and fencing which are a vital network through farms.

35. The S42A recommends at para 256 that Rule 22.2.3.4 should permit the maintenance of existing tracks, fences and drains without any area or volume threshold. The reasoning is that this work is part and parcel of any farming operation and that it would be unreasonable to require a resource consent process to maintain infrastructure that already exists. FFNZ supports this recommendation and acknowledges the movement made, however in our view this approach should be applied more broadly to ancillary rural earthworks which are permitted with specific conditions designed to avoid, remedy or mitigate potential adverse effects.
36. The S42A Report recommends at para 263 to introduce an activity cascade to restricted discretionary in Rule 22.2.3.4 as opposed to discretionary. Whilst this is supported and acknowledge it is in part acceptance of our submission, we consider the matters of discretion proposed in our submission (680.208) respond more appropriately to the matters which Council should focus on. These are listed by the Officer as being visual, landscape and ecological effects. We submit that matters of discretion are restricted to the following matters:
- (i) Visibility from public place; and
 - (ii) Scale of earthworks and effects on the landscape values;
 - (iii) The purpose and functional need of the earthworks

Buildings in identified ONF/ONL/SAL/NCA

37. FFNZ has concerns with the proposed planning approach. It is overly restrictive and has potential to capture farming relating buildings and structures such as stock yards on farmland that is captured within one of the specific overlays. A permitted activity response with an associated restricted discretionary activity rule is more consistent with the PDP rules framework and the matters which Council should focus on are easily defined. We understand the purpose of the rule is to manage the adverse effects of buildings and structures on identified landscapes, however we remind Council that 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 ONFs and ONLs.
38. The district's landscapes are inhabited by people and subject to human activity and change; they have never been static. The rural landscape in particular has been shaped by the activity of people and more recently farming activities over several generations and will continue to be in future. FFNZ supports the development of workable solutions for the management of identified landscapes across the district. But there is no reason for normal rural activities such as construction of farm buildings and structures or placement of tanks to be subject to the expense and time delays associated with discretionary resource consents.

39. FFNZ made a submission (680.220) to introduce an activity cascade to restricted discretionary in Rule 22.3.3 as opposed to discretionary and a new permitted activity rule 22.3.3 (P1) to give effect to submission points raised in relation to Rule 22.3.3 D1 (680.221).
40. Interestingly the S42A Report accepted at para 286 that a restricted discretionary activity status would be more appropriate given the effects of buildings are essentially visual in nature and consent can be declined if council is not satisfied those visual adverse effects are unable to be managed. However, the recommendation at section 8.1.4 para 292(d) is to reject the submission with no amendments proposed for the notified discretionary rule. This seems to be an oversight rather than intention to not make any changes.
41. With regards to the first part of the new permitted activity approach, which provided for the maintenance and replacement of existing buildings or structures, the S42A Report reasoning considered this to be unnecessary on the basis that existing use rights will apply, para 280. FFNZ largely accepts this reasoning.
42. With regards to the second part of the new permitted activity approach, the focus of the S42A Report reasoning is that only some of the identified landscapes contain pastoral areas, with the majority associated with bush, wetlands or landforms, para 283. There is further concern at para 285 that buildings and structures have the potential to compromise attributes of the identified landscapes.
43. FFNZ understands the concern outlined the S42A Report and considers that the relief sought was mindful of the fact that not all ONFs and ONLs capture pastoral areas. We also understand that some buildings and structures are inappropriate within these sites. In our view the permitted activity relief sought was deliberate in the intent to apply only to the pastoral areas captured within those overlays not the overlays more broadly. FFNZ retains this position.
44. By way of a general comment the S42A report makes a point at para 191 and para 232 that Rule 22.3.3 does not address building and structures within SALs in the rural zone and suggests this must be an oversight. The inference seems to be that buildings within a SAL in the rural zone are not managed. We use this opportunity to draw the Officer's attention to Rule 22.3.4.1 (P2) and the other general requirements relating to the number of dwelling within a site, building coverage, and setbacks for buildings within the rural zone.

New schedules for important geological sites and landforms, ONF, ONL, NCA and SAL

45. FFNZ made further submissions (FS1342.1, FS1342.2) opposing in part the relief sought by Geoscience Society of New Zealand (8.2, 8.3) to introduce new schedules and sites into the proposed plan.

46. FFNZ considers that only new sites or features which are located on public land should be added to schedules in the plan using the schedule one submission process. It is inappropriate to add any sites that may be located on private land without direct landowner consultation in the first instance. There are very restrictive land use controls which apply to these overlays and as such, a rigorous identification process with meaningful consultation is necessary.
47. The S42A Report addresses this matter at para 299 and recommends not including a new planning response for geopreservation sites, including the introduction of sites. This recommendation and the reasoning is supported.

Definitions

48. FFNZ made a number of submission points relating to notified definitions, essentially seeking changes to improve clarity of the plan and the information provided to plan users. This included listing identified areas on schedules, which summarises the associated values, and included the overlay on planning maps.
49. The S42A report acknowledged the importance of introducing schedules which contain the list of attributes, linked to definitions, during consideration of matters in section 9 (para 302-308). The 9.1.5 recommendations and reasoning are supported.
50. FFNZ also sought to delete the definition of Significant Amenity Landscapes (680.267). Whilst we understand the purpose of the definition and subsequent policy framework is trying to give effect to the WRPS, we have concerns that the proposed plan captures rural productive areas as SALs unnecessarily. Our primary concern is with the use of the SAL overlays affecting everyday farming operations in the Rural Zone by triggering an onerous and unnecessary requirement for farmers to have to obtain resource consent for practical development of farms for farming, for what amounts to little or no environmental benefit. Farming is part of the landscape character of rural areas, and farming should not be subject to onerous requirements for resource consent to develop their farms for farming purposes.
51. Under the new implementation approach FFNZ is putting forward, the definition is required, including the spatial overlay and schedule of attributes, as this will act as the 'alert layer' trigger. For this reason, we understand and accept the S42A Report to reject our submission to delete the SAL definition, section 10.1.4 para 324(o).

PART C – PLANNING MAPS

52. FFNZ made a general point to address serious concerns which were raised throughout the full submission. The process used to identify and map overlays onto private land had not been sufficiently robust for many landowners to have confidence in the accuracy of the data which has been mapped over their properties. This is

particularly important to get right given the degree of regulation proposed to be applied over these respective areas.

53. FFNZ supports the principle of a planning approach that seeks to identify areas of national importance, and those required to meet WRPS requirements, and consider that a targeted planning response is more appropriate than general catch all rules. Further frustrations relate to the consultation process. It is FFNZ understanding that WDC was not particularly proactive during the consultation and development process and many affected parties are either not aware or don't fully understand the implications of overlays which apply to their properties.
54. The submission point has not been assigned to this hearing topic but we consider it relevant given the number of overlays which relate to identified landscapes over private land.
55. FFNZ understands some amendments to specific overlays have been recommended based on technical expertise and the opportunity created for improved accuracy with site visits and ground truthing. This process is supported, and we ask for other affected landowners to have the same opportunity provided.



Hilary Walker
20 August 2020