



Department of Conservation
Te Papa Atawhai

6 October 2010

ENTERED
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Mike Avery
Planning and Regulatory Manager
Stratford District Council
P O Box 320
STRATFORD 3452

Dear Mike

**SUBMISSION ON STRATFORD DISTRICT PLAN VARIATION 1 –
INDIGENOUS FORESET & BIODIVERSITY**

Thank you for providing the Department of Conservation with copies of Variation 1 for our submission.

Please find attached a submission on behalf of the Director-General of Conservation in respect of the variation.

If you have any questions or would like to arrange a time to meet and discuss this submission, please contact Michael Nielsen at 06 350 9705 or at mnielsen@doc.govt.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Green'.

Paul Green
Conservator
Whanganui Conservancy

RESOURCE MANAGEMENT ACT 1991

SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR A VARIATION

TO: Stratford District Council

SUBMISSION ON: Stratford District Plan Variation 1 – Indigenous Forest & Biodiversity

NAME: Alastair Morrison
Director-General of Conservation

ADDRESS: c/- Department of Conservation
Whanganui Conservancy
Private Bag 3016
Whanganui 4540

STATEMENT OF SUBMISSION BY THE DIRECTOR-GENERAL OF THE DEPARTMENT OF CONSERVATION

Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991 (RMA), I, Paul Green, Conservator, acting upon delegation from the Director-General of the Department of Conservation, make the following submission in respect of Variation 1.

1. This is a submission on the following proposed variation:
Stratford District Plan Variation 1 – Indigenous Forest & Biodiversity.
2. The specific provisions of the proposed variation that my submission relates to are set out in Attachment 1 which forms part of this submission.
3. My submission is as set out below and in Attachment 1. The decisions sought in this submission are required to ensure that the proposed variation:
 - promotes the sustainable management of natural and physical resources in the Stratford District as required by Part II of the Resource Management Act 1991;
 - provides for the preservation of the natural character of wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development as required by Section 6(a) of the Resource Management Act 1991.
 - provides for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as required by Section 6(c) of the Resource Management Act 1991;

4. I **seek** the following decision from the Council:
- 4.1 That the particular provisions of the variation that I support, as identified in Attachment 1, are retained.
 - 4.2 That the amendments to the variation sought in Attachment 1 are made.
 - 4.3 That some particular provisions of the variation, as identified in Attachment 1, are amended or deleted.
 - 4.4 Further or alternative relief to like effect to that sought in 4.1 – 4.3 above.
5. I **do** wish to be heard in support of my submission.

Paul Green
Conservator

Pursuant to delegated authority
On behalf of
Alastair Morrison
Director-General of Conservation

Date: 6 October 2010

Address for service: Department of Conservation
Whanganui Conservancy
Private Bag 3016
Whanganui 4540

Telephone: (06) 350 9700

Fax/email: (06) 350 9701

Contact person: Michael Nielsen
Community Relations Ranger/RMA
Ph (06) 350 9705
mnielsen@doc.govt.nz

A copy of the Instrument of Delegation may be inspected at the Office of the Director-General of Conservation, 18 - 32 Manners Street, Wellington

RESOURCE MANAGEMENT ACT 1991

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TO: Stratford District Council

SUBMISSION ON: Stratford District Plan Variation 1 – Indigenous Forest & Biodiversity

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Director-General of Conservation

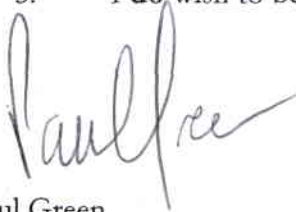
ADDRESS: c/- Department of Conservation
Tongariro Whanganui Taranaki Conservancy
Private Bag 3016
Whanganui 4540

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Pursuant to delegated authority
On behalf of
Alastair Morrison
Director-General of Conservation

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ATTACHMENT 1:

STRATFORD DISTRICT PLAN VARIATION 1 – INDIGENOUS FOREST & BIODIVERSITY

SUBMISSIONS BY THE DIRECTOR-GENERAL OF THE DEPARTMENT OF CONSERVATION

The specific provisions that my submission relates to are set out in Attachment 1 under the **headings** contained in proposed Variation 1. My submissions are set out immediately following these headings, together with the reason and the decision I seek from the Council.

The decision that has been requested may suggest new or revised wording for identified sections of the proposed statement. This wording is intended to be helpful but alternative wording of like effect may be equally acceptable. Text quoted from the District Plan, Proposed Variation 1 and supporting documents are shown in *Italics*. The wording of decisions sought shows new text as underlined and original text to be deleted as ~~striketrough~~.

Unless specified in each submission point my reasons for supporting are that the policies are consistent with the Resource Management Act 1991 (RMA) and would support the enhancement or protection of conservation values.

Consequential amendments, where necessary, to the Objectives and other parts of the variation are also sought for consistency of wording as a result of the following submissions.

1. **Wetlands, Indigenous Vegetation & Indigenous Fauna**

My submission is: that amending the term "*Indigenous Forest*" to "*Indigenous Vegetation and Indigenous Fauna*" is supported.

The reason for my submission in support is: that this amendment will better align with s6(c) of the RMA.

I **seek** that this change be retained. It is noted that consequential changes are also required to the numerous headings in the Plan including the heading of Objectives A2.2; Policies A2.3; Methods A2.4 and B6.3.

2. **Definition**

My submissions are:

- (a) That the definition for Clearance be amended as follows:

"Clearance"

means the felling, removal or destruction of indigenous vegetation by any means ~~where that indigenous vegetation in the area affected has a predominant canopy height of 3m or greater.~~

The reason for my submission is: to avoid unnecessary repetition of the details set out in proposed Rule B1.2.1.5 second Bullet point and thereby advance certainty in the Plan.

- (b) That the definition for Indigenous vegetation disturbance be amended as follows:

“Indigenous vegetation disturbance”

means felling, destruction or damage to indigenous vegetation, including indigenous trees, manuka, kanuka, grasses, shrubs or other plants, by any means including cutting, burning, crushing or spraying except that indigenous forest vegetation disturbance does not include:

.....

The reason for my submission is: to correct a drafting omission (although it could be covered under proposed Variation 1 “Consequential Amendments”).

- (c) That a new definition for “Disturbance of vegetation” be added as follows:

“Disturbance of vegetation”

means felling, destruction or damage to any vegetation, including indigenous vegetation such as trees, manuka, kanuka, grasses, shrubs or other plants, by any means including cutting, burning, crushing or spraying.

The reason for my submission is: that this addition will advance certainty in the Plan by clarifying the distinction between the first two bullet points under Rule B1.2.1.4 from the third bullet point under Rule B1.2.1.5. More specifically, while all three address vegetation within 20 m of a Waterbody or on land identified in Appendix 9, they are distinguished by the terms: “Disturbance of vegetation” or “Indigenous vegetation disturbance”.

- (d) That a new definition be added to the Plan for “Approved Ecologist” as follows:

Approved Ecologist

means an ecologist that is on a list held by Council of ecologists with documented expertise in the ecology of indigenous vegetation and habitats of indigenous fauna. Such a list will be approved by the CEO of the Council from time to time, following consultation with representatives of the Department of Conservation, Iwi, the farming forestry sectors, taking into account professional qualification, experience within the Taranaki Region or Stratford District, and membership of professional bodies.

The reason for my submission is: that this addition will advance certainty in the Plan in relation to my submission point 8(a) and specifically to rule B5.5. For further explanation see my reasons in point 8(a) below.

- (e) Otherwise the amendments to the definitions as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(a) and s6(c) of the RMA.

I **seek** that these amendments be accepted and that the proposed changes are otherwise retained.

3. **Objective**

My submission is: that the amendments to the Objectives as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(c) of the RMA.

I **seek** that these changes be retained.

4. **Policies**

My submissions are:

- (a) That Policy A2.3.2 be reworded as follows:

To protect areas of significant indigenous vegetation, ~~and to protect areas of~~ including all indigenous forest remnants on the ring plain.

The reason for my submission is: that these amendments will provide certainty in the Plan by clarifying that indigenous vegetation is inclusive of indigenous forest rather than in addition to.

- (b) Otherwise the amendments to the Policies as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(c) of the RMA.

I **seek** that these amendments be accepted and that the proposed changes are otherwise retained.

5. **Methods**

My submissions are:

- (a) That Method A2.4.3 be amended as follows:

To maintain a schedule within the District Plan of the location, significance and area of all areas of significant indigenous vegetation and significant habitats of indigenous fauna identified in the District.

The reason for my submission is: that this amendment will provide an opportunity for the Plan to recognise areas of indigenous vegetation that are been assessed as significant by a qualified ecologist under Rule B5.5. In this way, this method will better provide for s6(c) of the RMA. I note that

there appears to be an inherent assumption in this method that Plan Changes will be undertaken from time to time to “maintain” the schedule (Appendix 9) as new locations are identified. See also my points 11(a) and 11(c) below.

- (b) I seek that a new Method be added as follows:

A2.4.3A From time to time, Council will undertake Plan Changes to include areas that have been identified as significant within the meaning of section 6(c) of the Act as “Protected Areas” within the District Plan.

The reason for my submission is: that the provisions applying to Protected Areas under the District Plan should apply to areas that are identified as “significant” within the meaning of section 6(c). These provisions include rules which restrict activities undertaken in the **surrounding** area (i.e. ‘buffering’). This is not provided for in the rules for the Rural Area but is necessary for the protection of section 6(c) areas. As stated in proposed Methods A2.4.2 and A2.4.3, the ecological assessments that are required for a proposed activity in an area of indigenous vegetation, will provide for the gradual identification (and scheduling) of these significant areas.

- (c) Otherwise my submission is: that the amendments to the Methods as proposed are supported and should be retained.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(a) and s6(c) of the RMA.

I **seek** that these amendments be accepted and that the proposed changes are otherwise retained.

6. Rules

My submissions are:

- (a) That Rule B1.2.1.1(e) be deleted.

The reason for my submission is: that the Agroforestry and Farm Management Plans referred to have not been through a statutory process and therefore this rule does not effectively address the potential environmental effects of proposed activities as required by s5 and s31 of the RMA.

- (b) That Rule B1.2.1.3.1 (g) be deleted.

The reason for my submission is: that the activity described should be considered as a fully discretionary activity. Although harvesting of indigenous forest may have some economic benefits under section 7(b) of the Act, other activities also have economic benefits (such as farming). The criteria to which discretion are to be restricted must be stated widely in order to cater for the possibility that the area involved may have significance under section 6(c) of the Act. The criteria “findings of an

ecological assessment of the subject area” is stated too narrowly and the criteria should reflect the assessment criteria in B5.5. The separate activity status adds complexity for little substantial gain (including the need for complex repetition of requirements for information and assessment criteria).

- (c) Otherwise the amendments to the Rules as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(a) and s6(c) of the RMA.

I seek that these amendments be accepted and that the proposed changes are otherwise retained.

7. **Standard**

My submission is: that the amendments to the Standards as proposed are supported.

The reason for my submission is: that these amendments will improve certainty in the Plan and provide for s6(a) and s6(c) of the RMA.

I seek that these changes be retained.

8. **Assessment Criteria for Discretionary & Non-complying Activities**

My submissions are:

- (a) That Rule B5.5 be amended as follows:

In addition to any matter listed in “B5.1 General Assessment Criteria” above, applications for the ~~use or management~~ disturbance or clearance of indigenous vegetation, significant habitats of indigenous fauna, wetlands or the margins of wetlands that are discretionary or non-complying activities shall be assessed with regard to, and the District Council will exercise its unlimited discretion in respect of, the following matters:

.....
The process of considering applications for consent in relation to the above bullet points shall involve consideration of ~~any or all of~~ the following as assessed in an ecological assessment, by ~~a suitably qualified person~~ an approved ecologist with documented expertise in the ecology of indigenous forestry areas vegetation and habitats of indigenous fauna within the Taranaki region or Stratford District.

The reason for my submission is: that these amendments will advance consistency and certainty in the Plan. In order to fulfil its functions under sections 6 and 31(1)(b)(iii) of the Act, the Council will be placing reliance on the expertise of ecologists that provide assessments for the purposes of resource consent applications. It will be essential to ensure that such ecologists have appropriate experience, knowledge and competency. Such areas as are determined to be significant will be contained within a Schedule (Method A2.4.3), and it is in the interest of all parties that such Schedule be based on robust information. This is particularly the case if my submission regarding the addition of Method A2.4.3A be accepted. It

also considered that holding a list of approved ecologists at Council offices will prevent unnecessary argument regarding qualifications, and promote efficiency.

- (b) Otherwise the amendments to the Assessment Criteria as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(a) and s6(c) of the RMA.

I seek that these amendments be accepted and that the proposed changes are otherwise retained.

9. **General Information Requirements for Controlled and Limited Discretionary Activities**

My submissions are:

- (a) That the proposed new bullet point for Rule 6.1.2 be deleted (as it is not necessary if my submission in paragraph 6(b) above is accepted).

The reason for my submission is: that this amendment will advance simplicity and certainty within the Plan. For further details see my submission in paragraph 6(b) above. These amendments will also better address Method A2.4.2.

- (b) Otherwise the amendments to the Information Requirements as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(c) of the RMA.

I seek that these amendments be accepted and that the proposed changes are otherwise retained.

10. **General Information Requirements for Discretionary and Non-complying Activities**

My submissions are:

- (a) That the following bullet-point should be added to B6.3 Information Requirements:

- an ecological assessment, by an approved ecologist with documented expertise in the ecology of indigenous vegetation and habitats of indigenous fauna.

The reasons for my submission are: that without this information requirement the only guidance a person will have as to the need to provide for an ecological assessment will be through the assessment

criteria in B5.5. It is therefore appropriate to include this within the Information Requirements section of the Plan.

- (b) Otherwise the amendments to the Information Requirements as proposed are supported.

The reason for my submission in support is: that these amendments will improve certainty in the Plan and provide for s6(a) and s6(c) of the RMA.

I **seek** that these amendments be accepted and that the proposed changes are otherwise retained.

11. Appendices

My submissions are:

- (a) That the title of proposed Appendix 9: Wetlands and Significant Habitats of Indigenous Fauna be amended as follows:

Appendix 9: Wetlands, Areas of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna

The reason for my submission is: that this amendment will align with my proposed amendment to Method A2.4.3 in point 5(a) above. This will better provide for s6(c) of the RMA. I especially note the Council's intention to keep this list updated as new locations become apparent.

- (b) That consequential amendments be made where the title of Appendix 9 is referred to throughout Variation 1.
- (c) That a note be added to Appendix 9 as follows:

Note: this list is not comprehensive. From time to time additional Wetlands, Areas of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna will be identified and incorporated into this table through the Plan Change process.

The reason for my submission is: that this addition will clarify the status and intention of Appendix 9 within the Plan and will align with Method A2.4.3. It is noted that the content of proposed Appendix 9 is very limited at this time and that it is desirable to expand this table as soon as more information becomes available.

I **seek** that these amendments be accepted and that the proposed changes are otherwise retained.

12. Consequential Amendments

My submissions are:

- (a) That in Rule B1.2.1.1 last bullet point the term "*The disturbance of indigenous vegetation*" be replaced in both instances with "Indigenous vegetation disturbance" to align with the corresponding definition.

The reason for my submission is: that these amendments will advance consistency of terms used in the Plan.

- (b) That replacing the term "*indigenous forest*" with "*indigenous vegetation*" is generally supported.

The reason for my submission in support is: that this amendment will better align with s6(c) of the RMA.

I **seek** that these amendments be accepted and that the proposed changes are otherwise retained.