

**A Submission on:** Proposed Variation 1(Indigenous Forest & Biodiversity) to the Proposed District Plan 2009

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NZFM would like to be heard in support of this submission

### **Introduction:**

NZFM is a privately owned company established in 1989. The company is a specialised contract forest management organisation that provides commercial forest owners with a comprehensive management service covering the full range of operations from forest development, protection and investment through to harvesting and marketing. NZFM manage land within the Stratford District on behalf of Global Forest Partners (GFP). Our primary interest is in Te Wera Forest, located on State Highway 43.

### **COMMENTS TO PROPOSED VARIATION 1 (PV1):**

#### **1 Definitions**

##### **1.1 'Indigenous Vegetation Disturbance'**

The current definition of 'Indigenous Vegetation Clearance' has the potential to capture forest harvesting operations where these occur next to an area of indigenous forest.

Although indigenous forest areas are protected during harvesting operations through Best Management Practices and industry standards such as the NZ Environmental Code of Practice for Plantation Forestry, invariably there may be some ancillary damage to the edge of an indigenous area, i.e. the edge shrubs of an indigenous remnant may suffer minor damage. Although this damage is not intentional, there is the potential for damage and in practice it is often difficult to ensure that no damage occurs to areas adjacent to forest stands.

This type of minor damage should not fall within the definition of 'Indigenous Vegetation Disturbance' as from what we understand, this effect is not the type intended to be captured by the definition.

NZFM submits that the definition of 'Indigenous Vegetation Disturbance' should include an exemption for minor and temporary damage resulting from forest harvesting activities. Regional Councils have taken similar approaches when developing definitions of 'Vegetation Clearance' for their Regional Plans.

Relief sought:

That Council amend the definition of 'Indigenous Vegetation Disturbance' in the PV1 to include an exemption for ancillary damage due to forest harvesting activities. Suggested wording is:

*'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 disturbance does not include:*

.....

*(e) Minor and temporary disturbance of vegetation resulting from forest harvesting operations.'*

Or words to such effect.

## 2 Rural Zone Discretionary Activities

### 2.1 B1.2.1.4

NZFM opposes the 20m limit relating to the following bullet point of B1.2.1.4:

- *'Disturbance of vegetation within 20m of, or within, any wetland, which is not provided for as a permitted activity by Rule B1.2.1.1 Bullet Point 13 (the removal or trimming of vegetation in specified circumstances), but EXCLUDING non-complying activities listed in Rule B1.2.1.5.'*

There appears to be no justification within the Section 32 analysis for the 20m buffer imposed around wetlands, where activities within the buffer area trigger a requirement for a discretionary consent. 20m is the distance used in the current non-complying rule for indigenous vegetation disturbance adjacent to a waterbody (Rule B1.2.1.5), however using the same distance within the new discretionary rule simply for consistency is not an adequate justification and the distance limit established needs to be scientifically based.

Wetlands within the District may be effectively protected by a smaller buffer area, such as 5m. Significant wetland areas are identified within the PV1 in Appendix 9 "Wetlands and Significant Habitat of Indigenous Fauna" and are protected by Rule B1.2.1.5. To require discretionary consent for disturbance of vegetation within 20m of all other wetlands within the District is not appropriate or justified. The risk from vegetation disturbance activities to unidentified wetlands is less than that of wetlands identified in Appendix 9 due to their significance. Because the risk is lower, the control mechanisms should also be lower and as such a 5m buffer area is more appropriate to control the effect of vegetation disturbance on wetlands.

Within Te Wera Forest there is a significant area of productive forest land within 20m of wetlands. The requirement for a full discretionary consent to disturb vegetation within these areas provides no certainty that the consent will be granted and that harvesting operations can occur. This may have implications under Section 85 of the Resource Management Act 1991 (the Act). This section of the Act refers to provisions or proposed provisions of a plan or proposed plan that render any land incapable of reasonable use and places an unfair and unreasonable burden on any person having interest in the land. The bullet point quoted above from B1.2.1.4 effectively requires a buffer to be established around wetlands on plantation forest land and if replanting were not allowed to occur following harvesting, a financial penalty would be incurred by way of the deforestation tax under the Climate Change Response Act 2002. In such instances there is still some uncertainty as to whether the requiring authority or the landowner is responsible for the deforestation liability.

Relief sought:

NZFM submits that the buffer distance limit from wetlands in the bullet point quoted above from Rule B1.2.1.4 be reduced from 20m to 5m to better reflect the overall risk of the activity.

2.2 B1.2.1.4

NZFM submits that Council consider amending the activity status of the bullet points within B1.2.1.4 relating to vegetation disturbance adjacent to wetlands, disturbance of vegetation on land identified within Appendix 9 and indigenous vegetation disturbance from Discretionary to Restricted Discretionary.

A discretionary consent allows for a wider range of factors to be considered in the resource consent application than those affecting the activity for which consent is deemed necessary. This provides no certainty for property owners. The Indigenous Forest and Biodiversity provisions of PV1 are specific objectives and policies. The potential effects from vegetation disturbance and indigenous vegetation disturbance are relatively easily identifiable and quantifiable. The requirement for a discretionary consent that allows factors unrelated to the objectives and policies relevant to the Indigenous Forest and Biodiversity provisions to be considered is unjustified.

Relief sought:

That Council considers amending the activity status of the proposed provisions in PV1 relating to vegetation disturbance adjacent to wetlands, disturbance of vegetation on land identified within Appendix 9 and indigenous vegetation disturbance from Discretionary to Restricted Discretionary.

### 3 Rural Zone Non-Complying Activities

3.1 B1.2.1.5

NZFM is concerned that ancillary damage to indigenous vegetation adjacent to wetlands identified in Appendix 9 has the potential to be classed as a non-complying activity under B1.2.1.5 as it is currently written.

In the Stratford District, NZFM manages Te Wera Forest within which are the Te Wera Wetlands that are identified in Appendix 9 (WSH14). Te Wera Forest is a

commercial plantation forest. When harvesting occurs within Te Wera Forest it is possible that indigenous vegetation buffer areas within 20m of the protected wetlands may suffer minor damage. Due to the steepness of Te Wera Forest, cable harvesting methods are generally employed to extract stems from the falling site.

Cable harvesting has the benefit of being able to lift stems clear of the ground and therefore is an advantageous method to use around protected wetlands, as it minimises disturbance to the land and reduces the amount of tracking required.

Depending on the location of the falling site, the ropes of the cable harvester could operate above or close to protected wetlands. As the ropes are lifted and lowered to pull in the felled stems, indigenous vegetation may be damaged. Under the current definition of 'Indigenous Vegetation Disturbance' this activity would be classed as non-complying if the ropes operated within 20m of the Te Wera Wetlands.

Because the methods used are aimed at minimising damage to the forest, NZFM submits that this ancillary damage is exempted from the non-complying activity rule by amending the definition of 'Indigenous Vegetation Disturbance'.

Relief sought:

That Council amend the definition of 'Indigenous Vegetation Disturbance' within the PV1 to include an exemption for ancillary damage due to forest harvesting activities, as requested in 1.1 above.

#### **4 General Information Requirements for Discretionary and Non-complying Activities**

##### **4.1 B6.3**

The information requirements for assessing a discretionary consent application includes the general applicable information requirement of B6.1.2.

B6.1.2 requires:

*'An ecological assessment, by a suitably qualified person with documented expertise in the ecology of indigenous forestry areas within the Taranaki Region or Stratford District, which shall involve consideration of any or all of the following:  
.....'*

As it is written, this requirement is unclear as to what constitutes a 'suitably qualified person'. A suitably qualified person may be directly employed by the landowner or manager – such as in NZFM's or the Department of Conservation's case - but because they are seen to have a vested interest in the application an assessment by this person is unlikely to be accepted by Council. It appears that the expectation is for landowners or managers to contract a third-party suitably qualified person to undertake an ecological assessment at their cost. If this is the case, the requirement above should be reworded to ensure that the expectations are clear.

Also, this requirement will be overly burdensome for many indigenous vegetation disturbance activities now requiring consent under PV1 and may create a barrier to the activity occurring, independent of the results of the actual assessment. For example, a landowner may want to remove a single standing indigenous tree that is of no real significance (but greater than 3m in height) but because it is located

within 20m of a wetland the landowner is required to employ a suitable qualified ecologist to undertake an assessment of the activity. The landowner themselves would be more than likely able to undertake an adequate assessment for Council in this situation.

This requirement is a 'catch-all' and is not related to the significance of the area or the risk associated with the proposed activity. NZFM submits that Council include a form of significance test within B6.1.2 that requires an ecological assessment where the significance of the area in question or the risk from the proposed activity is high. Where the significance of the area in question is low and the proposed activity is of low risk, a landowner assessment should be accepted as adequate. This could be done by introducing an area limit for the vegetation clearance or vegetation disturbance activity in Rules B1.2.1.4 and B1.2.1.5, or depend on the size and/or scale of the waterbody/wetland that the activity relates to.

Relief sought:

That Council rewords the bullet point for B6.1.2 quoted above to ensure clarity of what is expected of an ecological assessment;

and

That Council introduce a significance test whereby third-party ecological assessments are required only where the significance of the area in question or the risk of the activity is high.

## **5 Appendix 9 : Wetlands & Significant Habitats of Indigenous Fauna**

### **5.1 Correct Mapping of the Te Wera Wetlands**

When the Te Wera Wetlands were originally mapped the existing crossing points were mapped out of the covenanted area of the wetlands. NZFM submits that Council ensure the Te Wera Wetlands are identified and mapped correctly within PV1 to ensure there are no unnecessary or incorrect interpretation of the District Rules brought about by an error of mapping.

NZFM can assist Council to ensure the mapping of Te Wera Wetlands is correct.

Relief sought:

That Council is open to working with NZFM to ensure that the Te Wera Wetlands are correctly mapped in Appendix 9 of PV1.

## **6 Proposed National Environmental Standard for Plantation Forestry**

Although Council is likely to already be aware of it, NZFM would like to highlight the National Environmental Standard for Plantation Forestry (NES). The NES is currently out for public consultation. The NES suggests guidelines for District and Regional Councils on all matters relating to forestry.

A copy of the 'Proposed NES for Plantation Forestry: Discussion Document' is attached for your information.

Thank you for the opportunity to provide comments to Proposed Variation 1. If you have any queries regarding our submission please don't hesitate to contact me.



Jackie Egan  
**ENVIRONMENTAL PLANNER**

6 October 2010