

DECISION REPORT



TO: Chief Executive

FROM: Planning & Regulatory Manager

DATE: 09 June 2009

**SUBJECT: DISTRICT PLAN DECISIONS PART IV
NATURAL ENVIRONMENT**

File Ref 18270

1. PURPOSE OF REPORT

This report is to provide recommendations for Council on the submissions made in respect of the natural environment, i.e., riparian management, waterways, indigenous forest, protected trees and outstanding natural features.

Further decision reports will cover the various subject areas submitted on in respect of the Proposed Stratford District Plan (the Plan) and the few remaining submissions in the Proposed Plan Change 5, relating principally to impermeable surfaces, transportation and network utilities. The complete set of recommendations on all of the submissions will then be released to allow the adoption of the Stratford District Plan 2009.

2. EXECUTIVE SUMMARY

The recommendations essentially:

- Confirm the proposed riparian management regime
- Shift the indigenous forest terms from “clearance” to a defined “indigenous forest disturbance”
- Retain the use of the Forest Act plans and permits but identify this as requiring further review.
- Commit Council to carrying out a process to identify the District’s Significant Natural Areas, which will include review of the use of the Forest Act plans and permits.
- Ensure that the rules applying to manuka form an integrated suite of controls.
- Make a number of minor amendments to ensure alignment of the District Plan with Section 6 of the Resource Management Act 1991 (the Act).

It is noted that many of the changes introduce a degree of uncertainty into the District Plan, particularly where objectives and policies relating to indigenous forest are altered to reflect “significant” areas of vegetation and “sustainability” is confirmed as reflecting the Act requirements rather than those of the Forests Act. However, the rules and standards remain clear in their application and, given the low level of activity concerning indigenous forest, the level of uncertainty is acceptable given Council’s commitment to review its management approach towards areas of indigenous forest.

3. **BACKGROUND**

Proposed Plan Change 15 has specific proposals relating to the trigger thresholds for riparian planting requirements which attracted a number of submissions. In addition submissions were received concerning Council's approach towards managing natural environments in the District Plan.

4. **CONSULTATIVE PROCESS**

4.1 **Public Consultation**

There is no requirement for further consultation on the submissions received. In drafting the recommendations, however, all of the submitters and cross submitters have been further consulted with.

4.2 **Maori Consultation**

There is no requirement for further consultation with Iwi on the submissions received.

5. **RISK ANALYSIS**

Please refer to the Consequence and Impact Guidelines at the front of the reports in this agenda.

5.1 The risks associated with the decisions to be made in terms of financial, human resources, political and business risks are minor.

5.2 The major risk with the decisions is that any of the submitters may appeal the decision on their submission to the Environment Court. Council must be clear as to what the decision being made is and what the reasons for that decision are.

6. **DECISION MAKING PROCESS**

Category	Factors to Consider
Direction	<ul style="list-style-type: none">• Is there a strong link to Council's strategic direction, LTCCP/District Plan.• Is there a strong link to identified community outcomes.
Data	<ul style="list-style-type: none">• Do we have complete data on the proposal(s).• Do we have reasonably reliable data on the proposals.• What assumptions have had to be built in.
Significance	<ul style="list-style-type: none">• Significance policy.• Whether this affects a strategic asset.
Choices	<ul style="list-style-type: none">• What options or choices are available.• Are the choices fully costed.• What interdependencies exist.• What are the disadvantages and advantages of each option?• Any legal/policy issues.
Prioritisation & Trade-off	<ul style="list-style-type: none">• Impact on funding and debt levels.

	<ul style="list-style-type: none"> • Council’s capacity to deliver. • Contractor capacity to deliver. • Consequence of deferral. • Impact on community (four well beings).
Specify nature of decision required	

6.1 **Direction**

The consideration of submissions is, with the exception of any appeals to the environment Court, the final part of the process of reviewing the operative Stratford District Plan (the Plan).

The decisions will assist Council in meeting the following identified community outcome:

“A region that appreciates its natural environment and its physical and human resources in planning, delivery and protection” by ensuring that *“sustainable development is encouraged”*.

The decisions will also assist Council in meeting the following identified community priority:

“Sustainable development”.

6.2 **Choices**

Council may uphold or decline any submissions or cross submissions made and may make any consequential changes which arise from those decisions. Where the intent of the submissions may be met more appropriately in a matter other than as outlined by the submitter, then Council may make those changes should it be deemed necessary.

6.3 **Data**

Almost all of the submissions and cross submissions were received on the third notification involving the entire proposed Stratford District Plan. A limited number were received on proposed Plan Change 15 and are italicised. Cross submissions received are indented beneath the reference submitted on and the position of the cross submission with regard to the original submission is stated.

RIPARIAN MARGINS

Change from river basis to catchment basis

Proposals

“A1.4.1 To use rules, and standards, conditions and terms that require as conditions of consent for land use, subdivision or development –

- *the creation of esplanade strips or reserves where land adjoining water courses identified on the NZMS 260 Topographical Series in the following “ring plain” catchments is subdivided : Waingongoro, Mangatoki, Kaupokonui, Patea, Kapuni, Manganui and Kahouri.”*

“C2.1.18.2 Circumstances

(a) The creation of esplanade strips:

- *As a condition of a resource consent for the subdivision of land adjacent to a water course identified on the NZMS 260 Topographical Series in one of the following ring plain catchments: Waingongoro, Manganui, Kaupokonui, Patea, Kapuni, Mangatoki and Kahouri.”*

Submissions

IN SUPPORT - *Fish & Game NZ (Taranaki)*
Taranaki Regional Council

OPPOSED - Mike Gibson
Federated Farmers
Taranaki Fish & Game - Oppose
TrustPower Ltd
Taranaki Fish & Game - Oppose
Federated Farmers - Support

Commentary on Submissions

IN SUPPORT

Both Taranaki Fish & Game and the Taranaki Regional Council give unqualified support to the proposal to move the threshold for riparian management in response to subdivision in line with that for land use.

Taranaki Fish & Game also seek further use of esplanade strips and reserves, as opposed to S221 Consent Notices to achieve riparian management. The reason for this is to “enhance public access to and along all the seven scheduled river catchments in the District” although the submitter does add the caveat “where this is possible and appropriate”. In determining the latter Taranaki Fish & Game adopt the position that they should be an affected party when considering consents which trigger a riparian requirement.

The matters raised by Taranaki Fish & Game relate not so much to the policy statements or standards within the Stratford District Plan so much as the administration of the plan. Taranaki Fish & Game have been involved in the limited number of circumstances where there has been possible physical access to a river. Typically, however, riparian management has been required in the upper catchment areas where the rivers are incised and not physically accessible without crossing other areas of farm land.

OPPOSED

Mike Gibson is opposed as esplanade strips do not provide for adequate compensation and the costs are out of proportion to any alleged environmental benefit. The submission that there are minimal environmental benefits is at odds with the findings of the Taranaki Regional Council, particularly in regard to smaller waterways. Both this submission and the ones from Federated Farmers and TrustPower, seek a return to the river based threshold rather than the catchment threshold as proposed.

Both submissions concentrate on the taking of esplanade strips and reserves although these mechanisms, as noted above, are not commonly used or appropriate in the Stratford District due primarily to the limited opportunities for access and the incised upper catchment rivers. Therefore the objections on the basis of cost are without grounds. Federated Farmers suggest the addition of the words “*appropriate when*” which would add strength to the use of alternatives when esplanade strips and reserves may not be appropriate due to access difficulties.

The cross submission from Taranaki Fish & Game reiterates their support of the catchment basis and refers to the existing parameters in Policy A1.3.1 which give guidance on what is practicable and appropriate. This policy therefore adds support to the Federated Farmers suggestion of adding appropriateness to the corresponding method. In addition a further method is proposed to add strength to the use of practicable alternatives to the formal creation of strips and reserves where appropriate.

RECOMMENDED

153A. The submissions and cross submission received by Fish & Game NZ (Taranaki) and the Taranaki Regional Council be upheld.

154. The submissions from Mike Gibson and TrustPower Ltd and the cross submission by Federated Farmers be declined.

155. The submission from Federated Farmers be upheld in part.

156. That Method A1.4.1 Bullet Point 4 be deleted and replaced with:

A1.4.1 To use rules, and standards, conditions and terms that require as conditions of consent for land use, subdivision or development –

- the stock proof fencing and retiring of land alongside water courses, where appropriate, when land adjoining water courses identified on the NZMS 260 Topographical Series in the following “ring plain” catchments is subdivided : Waingongoro, Mangatoki, Kaupokonui, Patea, Kapuni, Manganui and Kahouri.*
- the creation of esplanade strips or reserves where appropriate when land adjoining water courses identified on the NZMS 260 Topographical Series in the following “ring plain” catchments is subdivided : Waingongoro, Mangatoki, Kaupokonui, Patea, Kapuni, Manganui and Kahouri.”*

157. That Standard C2.1.18.2 (a) be confirmed.

Recommended Reasons

153. The submissions are in support of the proposal.

154. The submission statement is contradicted by both what occurs in practice and the findings of the Taranaki Regional Council.

155, 156. The addition of appropriateness to the method is supported by existing Council policy.

157. The financial contribution standard gives effect to the approved method.

Removal of waivers specific to subdivision

Proposal

The following waivers be deleted:

- *“The requirements in C2.1.18.2(a), (b) and (c) above may be waived in whole or in part where:
 - a subdivision is being initiated purely to amalgamate portions of land; and/or
 - a subdivision on farmland has been initiated purely to remove a surplus house which is to have surrounding legal boundaries not within 20m of any one of the seven named ring plain rivers targeted for the creation of esplanade strips/reserves in C2.1.18.2(a) and (b).”*

Submissions

IN SUPPORT - *Fish & Game NZ (Taranaki)*
Taranaki Regional Council

Commentary on Submissions

IN SUPPORT

Both submitters give unqualified support to the proposal. As no submissions were received in opposition to the proposal, the deletion of the waivers is confirmed without further formality.

RECOMMENDED

158. The two submissions from Fish & Game NZ (Taranaki) and the Taranaki Regional Council be upheld.

Recommended Reason

158. The submissions are in support of the proposal.

A1.1 Issue Statement

Submissions

AMEND - *Royal Forest & Bird Protection Society of NZ Inc*
Federated Farmers - Oppose

Commentary on Submissions

The RFBPSNZ submission seeks acknowledgement of agricultural run-off and the absence of riparian vegetation as the causes of a drop in regional water quality. This is opposed by Federated Farmers because it is unsubstantiated.

The issues statement does acknowledge that a decrease in water quality is in part attributable to agricultural run-off. The benefits to the environment from riparian planting are discussed in detail under A1.5 Explanation for Objectives, Policies and Methods.

Therefore the matters sought to be included by the submitter are already included to a level which can be substantiated through the Taranaki Regional Council.

RECOMMENDED

159. The submission from the Royal Forest & Bird Protection Society of NZ Inc be declined and the cross submission from Federated Farmers be upheld.

Recommended Reason

159. The matters sought to be included by the submitter are already included to a level which can be substantiated through the Taranaki Regional Council.

A1.2.1 Objective

Proposal

A1.2.1 Preservation of the natural character of riparian margins and the protection of them from any adverse effects of land use, subdivision or development.

Submissions

AMEND - Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose
Fish & Game NZ (Taranaki) - Support
Transpower NZ Ltd
Federated Farmers - Support
TrustPower - Support
EECA - Support

Commentary on Submissions

The RFBPSNZ, supported by Taranaki Fish & Game, seeks to replace the word “preservation” with “restore and enhance”. Federated Farmers again oppose this as it is unreasoned and lies outside of the RMA Section 6 reference to “preserve and protect”. The submitter has not referred to the other two objectives which deal with the matter raised by their submission. Objective A1.2.1 is essentially to ensure that what natural character is present is not further degraded.

The remaining submissions seek to have the qualifier of “inappropriate” added to the objective in reference to land use, subdivision and development. This would then reflect the wording under Section 6(a) of the Resource Management Act 1991 (the Act). In doing so it must be recognised that where there are adverse effects then it would be considered that the land use, subdivision or development is not appropriate under the Act.

RECOMMENDED

160. The submission and cross submission from the Royal Forest & Bird Protection Society of NZ Inc and Fish & Game NZ (Taranaki) be declined and the submissions and cross submission from Federated Farmers, Transpower NZ Ltd., TrustPower and EECA be upheld.

161. That Objective A1.2.1 be amended to state:

A1.2.1 Preservation of the natural character of riparian margins and the protection of them from any adverse effects of inappropriate land use, subdivision or development.

Recommended Reason

160, 161 The proposed wording, together with the amendment reflects the wording of Section 6(a) of the Act.

A1.3.1 Policy

Proposal

“A1.3.1 To avoid, remedy or mitigate any actual or potential adverse effects of land use or development on the conservation values and existing natural values of riparian margins on land adjacent to rivers and streams in the following seven priority “ring plain” catchments, through the retirement and protection - as far as practicable and where appropriate - of riparian margins in these seven priority “ring plain” catchments:

Waingongoro, Mangatoki, Kaupokonui, Patea, Kapuni, Manganui, Kahouri.

In determining what is “practicable” and “appropriate”, the District Council shall take into account:

- the physical characteristics of the site and catchment; and*
- existing riparian vegetation; and*
- existing instream ecological values; and*
- actual or potential scenic, amenity and recreational values; and*
- spiritual and cultural values; and*
- the actual or potential effects of the land use(s) both adjacent to the site, and in the catchment, on the matters listed above; and*
- the riparian management objectives and anticipated environmental results being sought; and*
- the cost of retiring and protecting riparian margins relative to the benefits; and*
- the effects of protection on the use of the margin and adjoining land by the owner or occupier of the land.”*

Submissions

AMEND - Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose
Transpower - Oppose
Transpower NZ Ltd
TrustPower - Support
EECA - Support

Commentary on Submissions

The RFBPSNZ seeks to widen the requirement for riparian management from the seven priority ring plain river catchments to all river catchments. Again this is opposed by Federated Farmers, as well as Transpower, as it is unsubstantiated. The submission would include all of the backcountry waterways which is of limited value given the high proportion of the land which is protected and the low level of development. Against this are potentially high costs for monitoring and enforcement as compared with the ring plain.

The issue will be raised as apart of the review programme for the District Plan in regard to the identification and protection of significant natural areas.

The submissions by Transpower NZ Ltd, TrustPower and EECA seek to have nationally and regionally significant infrastructure taken into account in determining what is practicable and appropriate. It is noted that this would not prevent the requirement for riparian management along any particular length of waterway but would require this additional factor to be taken into account. The submission relates to the requirements of the National Policy Statement (NPS) on Electricity Transmission 2008 which was released after the proposal of the District Plan. Various additional matters related to this NPS will be included in the first issue review for the District Plan.

RECOMMENDED

162. The submission from the Royal Forest & Bird Protection Society of NZ Inc be declined.
163. The submissions and cross submission from Federated Farmers, Transpower NZ Ltd., TrustPower and EECA be upheld.
164. That “*Nationally and regionally significant infrastructure*” be added as a bullet point in Policy A1.3.1.

Recommended Reasons

162. Extending riparian requirements to the eastern hill country is of limited value given the low level of development and high monitoring costs.
- 163, 164. The submission assists in giving effect to the National Policy Statement on Electricity Transmission 2008.

A1.3.3 Policy

Proposal

“A1.3.3 *To preserve the existing natural values and conservation values of wetlands and protect them from any actual or potential adverse effects of land use or development.*”

Submissions

AMEND - Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose
Department of Conservation
Federated Farmers - Oppose
Fish & Game NZ (Taranaki) - Support
Transpower NZ Ltd

Federated Farmers - Support
EECA - Support

Commentary on Submissions

The RFBPSNZ seeks to have the enhancement of wetlands included in the policy statement. Federated Farmers objects to this as it is outside of the RMA Section 6 requirement to “preserve and protect” only.

It is noted that this policy assists in achieving Objective A1.2.1 which relates to preservation and protection. The objectives cover specific matters which are to be enhanced, those being existing riparian margins and public access, both of which are covered by separate policies (A1.3.1 and A1.3.5 respectively). It is not therefore appropriate to include enhancement in the presently considered policy.

The Department of Conservation seeks to have the margins of wetlands included in the policy as is required by Section 6(a) of the RMA. Federated Farmers counters that because the issue being addressed in A1 is Riparian Margins then the extra words would be superfluous. It is noted that the margins of streams and rivers are already specifically covered by the other policy statements but have been omitted from the only policy to address wetlands. An allied matter raised in this submission relates to the clearance of indigenous vegetation within 20m of a water body rule which will be considered under the discussion below on Rule B1.2.1.5.

The Department of Conservation submission also refers to lakes, of which there are none in the Stratford District.

The remaining submissions seek to have the qualifier of “inappropriate” added to the objective in reference to land use and development. This would then reflect the wording under Section 6(a) of the Resource Management Act 1991 (the Act). In doing so it must be recognised that where there are adverse effects then it would be considered that the land use, development is not appropriate under the Act.

RECOMMENDED

165. The submission from the Royal Forest & Bird Protection Society of NZ Inc be declined and the cross submission from Federated Farmers be upheld.
166. The submission from the Department of Conservation and the cross submission from Fish & Game NZ (Taranaki) be upheld and the cross submission from Federated Farmers be declined.
167. The submissions and cross submission from Transpower NZ Ltd., Federated Farmers and EECA be upheld.
168. That Policy A1.3.3 be amended to state:
“A1.3.3 To preserve the existing natural values and conservation values of both wetlands and the margins of wetlands and protect them from any actual or potential adverse effects of inappropriate land use or development.”

Recommended Reasons

165. The requested submission goes beyond the wording of the Act.
166. The requirement to preserve and protect the margins of wetlands is required under Section 6(a) of the Act.
- 167, 168 The proposed wording, together with the amendment reflects the wording of Section 6(a) of the Act.

A1.3.4 Policy

Proposal

A1.3.4 To promote sustainable riparian management practices in the District.

Submissions

AMEND - Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose

Commentary on Submissions

The RFBPSNZ submission seeks that the policy requires, rather than promotes, sustainable riparian management practices in the District. Again this is opposed by Federated Farmers as it goes beyond the requirements of Section 6(a) of the Act.

The requirement for riparian management is by way of the appropriate standards of the District Plan which give effect to Policy A1.3.1. Section 5 of the Act then requires this management approach to be sustainable. Policy A1.3.4 specifically covers the promotion of sustainable riparian management, i.e., is purposefully non-regulatory to assist in the regulatory approach otherwise taken.

RECOMMENDED

169. The submission from the Royal Forest & Bird Protection Society of NZ Inc be declined and the cross submission from Federated Farmers be upheld.

Recommended Reason

169. Policy A1.3.4 is purposefully non-regulatory and the requirement for sustainable riparian management is included in Policy A1.3.1.

A1.5 Explanation for Objectives, Policies and Methods

Submissions

AMEND - Department of Conservation
Federated Farmers - Oppose

Commentary on Submissions

This submission from DoC is consequential on their submission on Policy A1.3.4 with the same cross submission from Federated Farmers. It is noted that A1.5 does refer to the need to covenant “*wetland area[s] including its riparian margins*” in the discussion under Wetlands and includes the area surrounding wetlands in later discussion. The only omission is in reference to possible consent conditions in the penultimate paragraph of A1.5.

In addition DoC is seeking the removal of an outdated reference to departmental policy.

RECOMMENDED

170. The submission from Department of Conservation be upheld and the cross submission from Federated Farmers be declined.

171. That the words “*and their margins*” be inserted following the words “*require the covenanting of wetlands*” in the penultimate paragraph of A1.5

172. That the words “*and the creation ofintends advocating*” be deleted from the fourth bullet point under Streams and Rivers in A1.5.

Recommended Reason

170, 171. The reference clarifies that the margins of wetlands are included in the District Plan discussion on its objectives, policies and methods.

172. The reference is no longer current.

B2.9 Standards - Esplanade Strips, Covenanted Wetlands and Access Strips

Submissions

AMEND - Taranaki Regional Council
Federated Farmers - Oppose

Commentary on Submissions

The Taranaki Regional Council requests that any consent conditions require the exclusion of stock from water courses. Although it is not clear from the submission if it is to apply to all waterways or not, the comments are made in specific regard to riparian planting and the proposed widened threshold for riparian management. Federated Farmers opposes the submission on the basis of increased costs to farmers.

B2.9 already specifically requires the exclusion of stock by way of fencing and also allows for prohibitive costs and other factors to be taken into consideration. Therefore the concerns of both submitters are already met in the District Plan.

RECOMMENDED

173. The submission from Taranaki Regional Council and the cross submission from Federated Farmers be both declined.

Recommended Reason

173. No amendment to the standard B2.9 is required as stock fencing is already included in the standard and the cost of the fencing is one of the matters which must be taken into consideration.

INDIGENOUS FOREST CLEARANCE

A2 Chapter Heading

Submissions

AMEND - Department of Conservation
Federated Farmers - Oppose

Commentary on Submissions

DoC wish to have the Chapter Heading, and any other similar references amended to state Indigenous Forest Protection. Federated Farmers agree that the words are too confining but suggest that the Doc submission remains an incomplete description and suggests that the heading simply be Indigenous Forest.

It is noted that the Federated Farmers suggested wording would then be in line with the other chapter headings. Both clearance and protection are two of several matters which are addressed in regard to the issue.

RECOMMENDED

174. The submission from the Department of Conservation be declined and the cross submission from Federated Farmers be upheld.

175. That the Chapter Heading of A2 be amended to state “*Indigenous Forest*” and that any consequential amendments be similarly made.

Recommended Reason

174, 175. The wording would then be in line with the other Chapter Headings and not restricted to specific matters within the issue.

Part E Definition of Terms

Submissions

AMEND - Department of Conservation
Federated Farmers - Support
Transpower - Support in part

Commentary on Submissions

The submitters either seek or agree with the inclusion of a new definition for indigenous forest disturbance and highlight the potential difficulties and lack of clarity by the District Plan’s reliance on “clearance”. Transpower’s concern is that the definition does not allow for the upgrading of existing infrastructure, noting that “*upgrading*” is restricted by the current definition within the District Plan and does not allow for new structures to be put in place. Inserting the word into the definition will then allow any consequent vegetation trimming resulting from upgrade works to be permitted.

The clearance issue has been recognised with recent enforcement action and does require addressing. The suggested wording does align with both Regional Policy Statements and adjacent district plans. It is noted that the definition must be read in conjunction with the existing definition of “Indigenous forest”.

RECOMMENDED

176. The submission from the Department of Conservation and the cross submissions from Federated Farmers and Transpower be upheld.

177. That Part E Definition of Terms be amended to include the following definition:

“***Indigenous forest disturbance***”

means felling, destruction or damage to indigenous forest, including indigenous trees, shrubs and other plants, by any means including

cutting, burning, crushing or spraying except that indigenous forest disturbance does not include:

- (a) actions necessary for the avoidance of imminent danger to human life*
- (b) tree trimming or the selective removal of vegetation necessary for the current operation and maintenance of existing infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines*
- (c) the collection of material for scientific purposes or propagation*
- (d) the collection of material by tangata whenua for maintaining non-commercial traditional practices of ronga (medical purposes), raranga (weaving) and mahhi whakairo (carving)*
- (e) the disturbance of vegetation which is not included in the definition of the term “indigenous forest”.*

178. Any consequential amendments be made to replace the term “clearance” with “indigenous forest disturbance”.

Recommended Reason

176-178. The use of a defined term adds clarity to the District Plan and is distinct from the existing definition for “clearfelling”.

A2.1 Issue Statement

Submissions

AMEND - Department of Conservation

Commentary on Submissions

DoC have suggested two minor improvements. These are:

- Insert “*or degradation*” into the Issue summary statement
- Qualify the permitted status of “sustainable” indigenous forest management with reference to the Resource Management Act.

The first is consequential on the new definition whilst the second is required due to the current reliance of the District Plan on sustainable plans and permits issued under the Forests Act. Irrespective of that, the measure of sustainability must be in reference to the RMA and the suggested amendment clarifies this.

RECOMMENDED

179. The submissions from the Department of Conservation be upheld.

180. The words “*or degradation*” be inserted after the word “*loss*” in the summary statement for Issue A2.

181. The words “*in terms of the Resource Management Act 1991*” be added to the final bullet point of A2.1.

Recommended Reason

179-181 The amendments clarify the application of the District plan to the indigenous forest issue.

A2.2.1 Objective

Proposal

“A2.2.1 The retention and protection of areas of indigenous forest within Stratford District.”

Submissions

AMEND - Federated Farmers
Transpower - Support
Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose

Commentary on Submissions

The RFBPSNZ seeks an amendment of the objective to restore and enhance areas of indigenous forest. Federated Farmers objects as this is outside of the requirements of Section 6(c) of the Act.

Federated Farmers and Transpower require the qualifier of significance to be applied to indigenous forest which is to be protected. This aligns with the wording of Section 6(c) of the Act.

RECOMMENDED

182. The submission from the Royal Forest & Bird Protection Society of NZ Inc be declined and the submissions and cross submissions from Federated Farmers and Transpower be upheld.

183. Objective A2.2.1 be amended to state:

“A2.2.1 The retention and protection of areas of significant indigenous forest within Stratford District.”

Recommended Reason

182, 183 The wording of the amended objective reflects the wording of the Act.

A2.3.1 Policy

A2.3.2 Policy

Proposals

“A2.3.1 To recognise the value of indigenous forest for its role in -

- maintaining and enhancing amenity values; and*
- safeguarding, maintaining and enhancing the values and life supporting capacity of ecosystems; and*
- maintaining and enhancing botanical and wildlife values; and*
- the avoidance or mitigation of natural hazards; and*
- the protection of heritage values.*

A2.3.2 To protect and retain areas of indigenous forest, particularly (but not exclusively) on the "ring plain".

Submissions

SUPPORT - NZ Historic Places Trust

AMEND - Department of Conservation
Federated Farmers - Amend
Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose
Transpower

Commentary on Submissions

DoC have suggested three minor improvements. These are:

- Refer to values in the plural
- add biodiversity to the second bullet point
- qualify Policy A2.3.2 by applying it only to sustainable forest in terms of the values listed in A2.3.1.

Federated Farmers are supportive except that they do not wish the interpretation of sustainability to be restricted only to those matters listed.

The bullet points in Policy A2.3.1 are not values in their own right. They are a list of what indigenous forest achieves and therefore by what the value of that forest is measured by. Therefore the first suggestion is irrelevant.

Biodiversity is implicit in the second bullet point but not explicitly stated. This can be done without affecting the policy statement in any way.

Whilst an explicit linkage between Policy A2.3.1 and A2.3.2 may seem desirable there is a risk that this would undermine Policy A2.3.2. Policy A2.3.2 relates to a non-complying activity rule covering the harvesting of indigenous forest in the “ring plain” area. The District Plan places a high value on all remaining indigenous forest in the “ring plain”, as recognised by the unqualified policy and the non-complying status of harvesting such areas,.

A way of avoiding this risk is to use Policy A2.3.1 to state how Council sees indigenous forest as being significant rather than how it is valued. Policy A2.3.2 can then refer to both indigenous forest on the “ring plain” and other significant areas of indigenous forest. This then satisfies the significance test of Section 6(c) of the Act by referencing both location and the matters listed in A2.3.1.

Transpower also wish to have the policies linked by a general statement at the end of the policies linking “appropriateness” back to Policy A1.3.1. That policy specifically relates to riparian management and, whilst there are synergies, the matters stated within the policy are not appropriate for all indigenous forest. The suggested link back to Policy A2.3.1 is a more suitable alternative.

The RFBPSNZ seeks amendment of Policy A2.3.1 by including kanuka and manuka forest types. The submitter also seeks that Policy A2.3.2 be amended to include the restoration and enhancement of indigenous forest. Federated Farmers object to the former because it is unsubstantiated and the latter because it is outside of Section 6 of the Act.

Indigenous forest in the District Plan includes all tree and plant types, including both kanuka and manuka, where there is an average canopy height of 3.0m. Manuka is only excluded where it is not accompanied by any other tree species. However the clearance of manuka which is over 3.0m in height is specifically covered by both a discretionary activity rule and a non-complying activity rule. Therefore the added specific inclusion of manuka and kanuka in the policy is unwarranted. These rules are discussed in detail further in this report.

RECOMMENDED

184. The submissions from the Department of Conservation and Transpower and the cross submission from Federated Farmers be upheld in part and the submission from NZ Historic Places Trust be accepted.
185. The submissions from Royal Forest & Bird Protection Society of NZ Inc be declined and the cross submission from Federated Farmers be upheld.
186. The word “*biodiversity*,” after the words “*enhancing the*” in the second bullet point of Policy A2.3.1.
187. The words “*To recognise the value of*” in Policy A2.3.1 be replaced with “*To recognise the significance of*”.
188. Policy A2.3.2 be amended to state:
A2.3.2 *To protect and retain significant areas of indigenous forest, and to protect and retain areas of indigenous forest on the "ring plain".*

Recommended

185. The amendment sought is already met through the definition of indigenous forest and, in regard to manuka, the standards of the District Plan
186. Biodiversity should be explicitly stated in the policy.
- 184,187,188 The amendments clarify how Council decides that indigenous forest areas are significant.

A2.3.3 Policy

Proposal

“A2.3.3 *To use the enforcement provisions of the Resource Management Act to protect an area of indigenous forest from the adverse effects of land use, development, or subdivision, particularly when (but not limited to) an area of indigenous forest is being subject to clearfelling or selective harvesting or other use or management for which a resource consent is required in terms of this District Plan but which has not been obtained.*”

Submissions

AMEND - Transpower
Federated Farmers - Support
EECA
Royal Forest & Bird Protection Society of NZ Inc
Federated Farmers - Oppose

Commentary on Submissions

Transpower, with the support of the cross submitters, seeks to have the qualifier of “inappropriate” added in regard to land use etc. This policy only relates to any activity for which resource consent is required but has not been obtained and adds a high level of support for what can often be expensive

enforcement action. The qualifier is not required as either an activity triggers a need for consent by way of a District Plan rule or it does not. The qualifier is not the “appropriateness” of the activity but how it sits within the relevant rule(s) framework.

The RFBPSNZ submission and the cross submission from Federated Farmers are in respect of manuka and kanuka in the same vein as submitted on Policy A2.3.1. The same comments apply.

RECOMMENDED

189. The submissions from Transpower and the cross submissions from Federated Farmers and EECA be declined

190. The Royal Forest & Bird Protection Society of NZ Inc submission be declined and the cross submission from Federated Farmers be upheld.

Recommended

189. The policy relates to unconsented activities which would require consent because they breach a rule in the District Plan.

190. The amendment sought is already met through the definition of indigenous forest and, in regard to manuka, the standards of the District Plan

A2.4 Methods

Submissions

AMEND - Taranaki Regional Council
Federated Farmers - Amend
Fish & Game NZ (Taranaki) - Support

Commentary on Submissions

The submissions all support a method which directs Council to identify any significant natural areas, noting that this must be a consultative process. Federated Farmers, although supportive, have expressed a concern that this would not allow any compensation to landowners for such land.

It is noted that there are mechanisms such as rate rebates which are currently offered for such as heritage resources and covenanted areas of indigenous forest which may also be suitable for significant natural areas. The introduction of such a method will necessitate a District Plan project to identify such areas and place relevant rules and standards around their management within the Plan. This will be a part of the District Plan Rolling Review Programme and is subject to a further consultation.

There is a concern that there may be a more effective general approach as compared with the specific identification of areas, or even a combination of the two. Therefore the method should allow for acceptable alternative approaches.

RECOMMENDED

191. The submissions from Taranaki Regional Council and the cross submissions from Federated Farmers and Fish & Game NZ (Taranaki) be upheld.

192. Method A2.4.3 be added to state, with consequential numbering changes:

“A2.4.3 *Either a schedule of Significant Natural Areas will be developed in order to identify those locations within the district which contain areas of significant indigenous biodiversity or a more suitable and effective means of protecting significant indigenous biodiversity will be implemented.*”

Recommended Reason

191-192 The method will enable Council to either formally assess those areas which are significant in terms of biodiversity, or follow through with an alternative effective approach, and increase the level of certainty of application of the District Plan.

A2.4.1 Method

Proposal

“A2.4.1 Rules and standards, and conditions and terms on resource consents will be used to ensure the retention and protection of areas of indigenous forest in the District in general, and to ensure that any proposed use or management of indigenous forest is only permitted on a sustainable basis.”

Submission

AMEND - Department of Conservation

Commentary on Submission

DoC seeks for this method to be amended by linking the sustainable management to the Resource Management Act, noting the reliance of the District Plan rules on the Forests Act.

The suggestion, as with the similar submission on the Issue statement is accepted. However it must be noted that, as the District Plan does contain standards and rules which do not rely on the Forests Act, the change will require further review of the rules around indigenous forest management.

This is addressed in this report, in consideration of Rule B1.2.1.1, and is included in the Rolling Review Programme for the District Plan.

RECOMMENDED

193. The Department of Conservation submission be upheld.

194. Method A2.4.1 be amended to state:

“A2.4.1 Rules and standards, and conditions and terms on resource consents will be used to ensure the retention and protection of areas of indigenous forest in the District in general, and to ensure that any proposed use or management of indigenous forest is only permitted on a sustainable basis, in terms of the Resource Management Act 1991.”

Recommended Reason

193-194 The amendment clarifies the application of the Resource Management Act to the management of indigenous forest.

A2.4.3 Method

Proposal

“A2.4.3 To encourage landowners, particularly (but not exclusively) on the “ring plain”, to voluntarily protect areas of indigenous forest through the use, for example, of covenants.”

Submission

SUPPORT - Federated Farmers

RECOMMENDED

195. The submission from Federated Farmers be accepted.

Recommended Reason

195. The submission is in support of the proposal.

B1.2.1.1 Rule

Proposal

“Sustainable forest management harvesting of indigenous forest in the “Frontal Hill Country” and “Hill Country” parts of the District (as identified in the Stratford District Planning Maps), provided these activities have a current “sustainable forest management permit” or “sustainable forest management plan” (as defined in Part E, Definition of Terms).”

Submissions

OPPOSED - Department of Conservation
Federated Farmers - Opposed

Commentary on Submissions

DoC submit that this activity should be deleted from the list of permitted activities pending an assessment of significant natural areas within the District. Federated Farmers offer the view that the use of the word “sustainable” satisfies the Section 6 requirement.

In considering the other submissions from DoC it is acknowledged that a reliance on plans and permits issued under the Forests Act is probably deficient in terms of the Act. However it must also be acknowledged that replacing that mechanism with a more robust regime of identified Significant Natural Areas is not something that should be undertaken on a piecemeal basis. Council has included a method which requires this process to be undertaken and has programmed it into the District Plan Rolling Review Programme. It is noted that at that time it will be appropriate to review the District Plan management approach towards indigenous forestry in its entirety rather than just the Plan’s use of the Forests Act provisions.

At this stage it would be difficult to assess any resource consent applications that would arise from landowners wishing to continue exercising their Sustainable Forest Management Permits as the Stratford District has no agreed (i.e., consulted) benchmark as to what level of significance would lead to an area being afforded protection. Deletion of the rule leads directly to the same situation for any landowner wishing to undertake any activity which would potentially interfere with the indigenous forest on their property.

Without the necessary assessments, in effect all management of indigenous forestry in the district would become subject to resource consent. This would be at variance with the submitter's expressed acceptance of a less regulatory regime in the eastern hill country.

"Sustainable forest management harvesting" is separately defined within the District Plan as being: "*the management of an area of indigenous forest land in a way that maintains the ability of the forest growing on that land to continue to provide a full range of products and amenities in perpetuity while retaining the natural values of the forest*". In the interim, prior to a full assessment of significant natural areas being completed, this provides a level of protection for indigenous forest in the eastern hill country, particularly when coupled with the discretionary and non-complying activity rules. The difficulty with the rules has always been monitoring and enforcement due to the very remote locations involved. As a counterpoint it must be noted that over half of the indigenous forest resource is within the DoC estate and a significant amount of the remainder is on land adjacent to DoC administered land.

Federated Farmers also comment on DoC's recommended use of the Land Environments of NZ (LENZ) database for identifying Significant Natural Areas. Discussion of this is of little relevance at this stage as the entire project, including the proposed means of identification must be subject to consultation in a similar way to the Heritage Assessment Project carried out in 2005.

Federated Farmers request that the permitted activity rules be amended to allow for minor disturbance of indigenous vegetation as a permitted activity. This is appropriate given the recommended exclusions in the definition of indigenous forest disturbance and the current permitted activity relating to power generation, transmission or distribution facility maintenance. The existing rule could be incorporated into an expanded rule based on the agreed exclusions and noting the application of the Electricity (Hazards from Trees) Regulations 2003.

RECOMMENDED

196. The submission from the Department of Conservation be declined and the cross submission from Federated Farmers be upheld.

197. The following bullet point be added to B1.2.1.1.

- *"the removal or trimming of vegetation as required for:*
 - (a) *actions necessary for the avoidance of imminent danger to human life*
 - (b) *the current operation and maintenance of existing infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines to a maximum distance of 3 metres from the infrastructure, road, access, fire water point, utility, structure or fence or, in the case of any electricity line, such distance as is prescribed by the Electricity (Hazards from Trees) Regulations 2003 to a maximum distance of 4 metres.*
 - (c) *the collection of material for scientific purposes or propagation*

- (d) *the collection of material by tangata whenua for maintaining non-commercial traditional practices of ronga (medical purposes), raranga (weaving) and mahhi whakairo (carving)*
- (e) *the disturbance of vegetation which is not included in the definition of the term “indigenous forest”.*”

198. The bullet point commencing with the words “*The removal or trimming of vegetation, including indigenous vegetation....*” be deleted.

Recommended Reasons

196. It is more appropriate that the change sought be incorporated into a specific review of the indigenous forest management regime including the identification of Significant Natural Areas.

197-198. The replacement rule is consequential on the accepted definition of “indigenous forest disturbance”.

B1.2.1.2.1(b) Matters over which control is reserved

B1.2.1.3.1(b) Matters over which discretion is reserved

Proposals

“*B1.2.1.2.1(b) For the subdivision of land specified in Rule B1.2.1.2 above:*

- *the granting, reserving, or modification of easements; and*
- *the alteration of any lot boundary; and*
- *the requirement of financial contributions; and*
- *the payment of administrative charges.*
- *the completion of works and services which may be, but are not limited to, those works and services detailed in Section C2 of this plan.”*

“*B1.2.1.3.1(b) For the subdivision types specified in Rule B1.2.1.3 above:*

- *conditions relating to compliance with the applicable Standards, Conditions, and Terms in Part B.2; and*
- *the granting, reserving, or modification of easements; and*
- *the alteration of any lot boundary;*
- *the requirement of financial contributions; and*
- *the payment of administrative charges*
- *effects on amenity, adjoining neighbours, network utilities, heritage resources, and notable trees.*
- *the completion of works and services which may be, but are not limited to, those works and services detailed in Section C2 of this plan.”*

Submissions

AMEND - Department of Conservation
 Federated Farmers - Amend
 Fish & Game NZ (Taranaki) - Support

Commentary on Submissions

DoC submits that setbacks or other measures in relation to wetlands, lakes and other significant habitats should be included in the lists of controls and discretions. Federated Farmers objects to a reliance on setbacks as a control and prefers a general statement that adverse effects on the environment are to be avoided, remedied or mitigated.

The Federated Farmers wording follows the purpose statement of the Resource Management Act and as such is a given in any event.

The use of setbacks in relation to wetlands is already covered under Section C2 of the District Plan and the stated exemptions for these allow for other remedies where they are more suitable. There are no lakes within the Stratford District and the significance of habitats has yet to be assessed as discussed above.

RECOMMENDED

199. The submission from the Department of Conservation and the cross submissions from Federated Farmers and Fish & Game NZ (Taranaki) be declined.

Recommended Reason

199. The requested controls and discretions are already in the District Plan.

B1.2.1.4 Rule Discretionary Activities (Rural Zone)

Proposal

“Harvesting of indigenous forest not provided for as a permitted activity in Rule B1.2.1.1 but excluding non-complying activities listed in Rule B1.2.1.5.”

Submissions

AMEND - Department of Conservation
Royal Forest & Bird Protection Society of NZ
Federated Farmers - Oppose
Transpower (NZ) Ltd - Oppose

Commentary on Submissions

DoC submit that other forms of disturbance should be included rather than just harvesting. As noted in the discussion on the submitted definition of “indigenous forest disturbance”, the issue has been noted with recent enforcement action. The only counterpoint is that generally there is little motivation to interfere with indigenous vegetation except to harvest the timber.

The suggested amendment has merit as it links back to the agreed definition for “indigenous forest disturbance”. In effect, it is disturbance which becomes the trigger for the District Plan provisions as opposed to harvesting and this is appropriate given that it is in the disturbance that any environmental effects become apparent.

The RFBPSNZ request that the clearance of indigenous forest from erodible land is also included as being a non-complying activity. This issue is dealt with by the Taranaki Regional Council under the Taranaki Regional Policy Statement and by Horizons MW under the Horizons regional Policy Statement.

RECOMMENDED

200. The submission from the Department of Conservation be upheld; the submission from the Royal Forest & Bird Protection Society of NZ be declined; the cross submissions from Federated Farmers and Transpower (NZ) Ltd be upheld.

201. The third bullet point of Rule B1.2.1.4 be amended to state:
“Indigenous forest disturbance or the harvesting of indigenous forest not provided for as a permitted activity in Rule B1.2.1.1 but excluding non-complying activities listed in Rule B1.2.1.5.”

Recommended Reason

200-201 The disturbance of vegetation is a more appropriate and more readily identified trigger than harvesting and land erosion is covered by the respective Regional Policy Statements.

B1.2.1.4 Rule Discretionary Activities (Rural Zone)

Proposal

“Clearance of pure manuka greater than 3m in height, in any of the following circumstances -.....

- (e) The total area of clearance on the property will be greater than 5 ha in any five year period.”*

Submissions

AMEND - Department of Conservation
Federated Farmers - Oppose
Royal Forest & Bird Protection Society of NZ
Federated Farmers - Oppose

OPPOSED - Federated Farmers

Note: The RFBPSNZ submission was on the non-complying rule, B1.2.1.5, but is included here as it is appropriate that the suite of rules is discussed together.

Commentary on Submissions

DoC submit that pure manuka is unlikely to exist and that 5ha per 5 years is an unreasonably large rate of clearance and suggest that the lower limit be 0.5 in any year. The Federated Farmers opposition is to any limit on the rate of clearance and they submit that each activity of this nature must be assessed on a case by case basis. This could only be done by taking a resource consent for each clearance event which is of questionable benefit and not otherwise anticipated by either of the submitters or the District Plan.

Federated Farmers also suggest that, rather than being a fully discretionary activity, such clearance could be considered as a limited discretionary activity. This is because such clearance is considered as being a “normal” farming practice.

The RFBPSNZ requests that the clearance of manuka of a greater age than 15 years be included as a non-complying activity rather than being discretionary. It is noted that manuka of this age would normally be co-located with other indigenous species.

The first point relating to clearance is clearly correct as there will always be other vegetation species present. The rule is practicably directed at areas where manuka is the dominant land cover.

Both submissions imply that where there is clearance less than the stated rate limit then that clearance would be permitted. Leaving the wording as

proposed for the sake of discussion, the District Plan contains three rules relating to manuka:

B1.2.1.1 Permitted Activities

- *Clearance of regenerating manuka up to 3m in height*

B1.2.1.4 Discretionary Activities

- *Clearance of pure manuka greater than 3m in height, in any of the following circumstances -*
 - (a) The vegetation is known or reasonably suspected to be habitat for any threatened species, including kiwi, robin or fernbird.*
 - (b) The vegetation has been recommended for protection under the PNA programme, or recommended in a report for protection by the Forest Heritage Fund or Nga Whenua Rahui committees, or in a report of a CRI, DOC, Conservation Board or Authority or National Parks and Reserves Authority. This includes areas recommended for protection by organisations which preceded those above, such as the Forest Service, DSIR and Wildlife Service.*
 - (c) The manuka is riparian vegetation, being within 20m of a river, lake, stream, pond, wetland or aquifer.*
 - (d) The manuka is wetland vegetation (found in permanently or intermittently wet areas, shallow water, and land water margins).*
 - (e) The total area of clearance on the property will be greater than 5 ha in any five year period.*

B1.2.1.5 Non-Complying Activities

- *The clearance of manuka greater than 3m in height which is accompanied by other indigenous trees species unless permitted by Rule B1.2.1.1.*

B1.2.1.4 also has a “catch all” clause where any activity not otherwise provided for becomes a discretionary activity.

Under these rules the clearance of less than 5ha per 5 years of pure manuka greater than 3m in height would not be permitted, as the permitted activity rule only applies where the height is less than 3m, but would be discretionary under the “catch all” rule. This is obviously in conflict with the specific discretionary rule, B1.2.1.4(e), relating to manuka clearance. Similar reasoning applies to each of the other discretionary circumstances listed. The permitted activity rule therefore requires amending to include pure manuka clearance, over 3m in height, which is not listed as either a discretionary or non-complying activity.

It is also noted that the word “*regenerating*” in the permitted activity rule is redundant - it is the tree height which is the threshold. The use of the word “clearance” remains appropriate in the permitted and discretionary activity rules where the rules relate to areas of predominantly one vegetation type and the meaning is clear. The wording of the non-complying activity rule should, however, reflect the recommendation concerning the distinction between clearance and disturbance.

The caveat in the wording of the non-complying activity rule, “*unless permitted by Rule B1.2.1.1*”, relates back to the permitted activity status of Sustainable Forest Management Plans and Permits.

In regard to the rate of clearance limit, there is a monitoring and enforcement issue with the 5 year period. Where there is clearance of “pure” manuka over 3m in height there is no means of recording exactly when that clearance occurred and therefore no means of determining the rate in any event. There are also evident difficulties with applying any rate which relies on an area unit when property sizes vary considerably. In practice the existing limit has caused little difficulty as manuka tends to be cleared before it reaches 3m in height and is therefore permitted.

Given the difficulties with the rate limit and the fact that neither submitter has offered a more practicable solution, the rate should be left and be subject to full review under the District Plan Rolling Review at the time of identification of Significant Natural Areas.

As amended the rules would allow for:

- The clearance of predominant manuka as a permitted activity except where it is potentially significant.
- Requiring consent for a discretionary activity for the clearance of predominant manuka in stated significant circumstances.
- The disturbance of manuka, when co-located with other indigenous trees, only as a non-complying activity.

RECOMMENDED

202. The submissions from the Department of Conservation and the Royal Forest & Bird Protection Society of NZ and the submission and cross submissions from Federated Farmers be upheld in part.

203. The last bullet point of Rule B1.2.1.1 Permitted Activities be amended to state:

“ The clearance of manuka less than 3m in height or the clearance of areas of vegetation predominantly comprising manuka greater than 3m in height but EXCLUDING such clearance provided for either as a discretionary activity by Rule B1.2.1.4 or as a non-complying activity by Rule B1.2.1.5.”

204. The last bullet point of Rule B1.2.1.4 Discretionary Activities be amended to state:

“The clearance of areas of vegetation predominantly comprising manuka greater than 3m in height, in any of the following circumstances.....”

205. The last bullet point of Rule B1.2.1.5 be amended to state:

“Indigenous forest disturbance, where that disturbance is only of manuka greater than 3m in height which is accompanied by other indigenous tree species, unless permitted by Rule B1.2.1.1.”

Recommended Reason

202. Neither submission contained a practicable alternative to the rate restriction as proposed.

203-205 All three rules relating to manuka require amendment to avoid conflicting statements and provide clarity.

B1.2.1.5 Rule Non-complying Activities (Rural Zone)

Proposal (as amended by submission)

- “• *Harvesting of indigenous forest in the “ring plain” part of the District.*
- *Clearfelling of indigenous forest throughout the District.*
- *Clearance of indigenous forest within 20m of a water body.*
- *Indigenous forest disturbance, where that disturbance is only of manuka greater than 3m in height which is accompanied by other indigenous tree species, unless permitted by Rule B1.2.1.1.”*

Submissions

SUPPORT - Department of Conservation

Commentary on Submissions

The submission from DoC on Policy A1.3.3, which related to the need to protect the area immediately surrounding wetlands as well as the actual wetlands, has a consequential effect on this rule. The rule clearly protects the indigenous forest riparian margins of water bodies, which includes wetlands under the Act. The difficulty with the rule is that it is restricted to indigenous forest which in many cases may not be found within the riparian distance whereas more suitable indigenous vegetation may be, such as sedges, grasses and flaxes. Although these plants are clearly included within the definition of “indigenous forest disturbance”, the rule should be more explicitly worded as applying to these types of plants either on their own or in conjunction with trees.

This leads to a consequential amendment to the definition of “indigenous forest disturbance” to ensure that the exclusions to forest disturbance also apply to other indigenous plant disturbance.

RECOMMENDED

206. The submission from the Department of Conservation be accepted, noting consequential changes required to the third and fourth bullet points replacing the word “*clearance*”.

207. That the third bullet point of Rule B1.2.1.5 be amended to state:
“*Indigenous forest disturbance or indigenous vegetation disturbance, within 20m of a water body.*”

208. The definition of “Indigenous Forest disturbance, as submitted be amended to state;

“**“Indigenous forest disturbance”**

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

- (a) *actions necessary for the avoidance of imminent danger to human life*

- (b) *tree trimming or the selective removal of vegetation necessary for the current operation and maintenance of existing infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines*
 - (c) *the collection of material for scientific purposes or propagation*
 - (d) *the collection of material by tangata whenua for maintaining non-commercial traditional practices of ronga (medical purposes), raranga (weaving) and mahhi whakairo (carving)*
 - (e) *the disturbance of vegetation which is not included in the definition of the term “indigenous forest”*
- and **“indigenous vegetation disturbance”** *has a similar meaning except that the vegetation may be only in the form of indigenous grasses, shrubs or other plants.”*

Recommended Reason

206. The submission is in support of the proposal.

207-208 The amendment clarifies the application of the rule to indigenous riparian disturbance where the plants are primarily other than trees.

ACTIVITIES ON THE SURFACE OF WATER

A3 Activities on the Surface of Water

Submission

SUPPORT - NZ Jetboat Association (Taranaki)

RECOMMENDED

209. The submission from the NZ Jetboat Association (Taranaki) be accepted.

Recommended Reason

209. The submission is in general support of the proposals.

A3.2.1 Objective

Proposal

“The avoidance, remedying or mitigation of the actual or potential adverse effects of activities on the surface of water in a way or ways that maintains the quality of water and the environment, while at the same time enabling people and the community to provide for their cultural, social and economic well-being and for their health and safety.”

Submission

SUPPORT - TrustPower Ltd

RECOMMENDED

210. The submission from the TrustPower Ltd be accepted.

Recommended Reason

210. The submission is in general support of the proposals.

A3.3 Policies

Submissions

AMEND - TrustPower Ltd
Transpower NZ Ltd - Support

Commentary on Submissions

The submitters seek a new policy which acknowledges energy generation and associated infrastructure in regard to water. Whilst it is acknowledged that the District Plan does not address this issue, there is a risk with *ad hoc* changes to the provisions of the District Plan in this regard. The District Plan provisions relating to network utilities and the climate change / energy efficiency issue need reviewing separately. It is proposed that this is done as the first part of the Stratford District Plan Rolling Review, given that there is some degree of urgency given the promulgation of the National Policy Statement on Renewable Energy in late 2007.

RECOMMENDED

211. The submission from the TrustPower Ltd and the cross submissions from Transpower NZ Ltd and EECA be declined and deferred to further review.

Recommended Reason

211. It is appropriate that the provision of policies relating to renewable energy be reviewed as part of the District Plan Rolling Review Programme.

A3.5 Explanation for Objectives, Policies & Methods

Submission

AMEND - Department of Conservation

Commentary on Submissions

The submitter seeks the removal of words which relate to the lack of support from river based operators for the [then] current rules and regulations on the Whanganui River. This statement was in relation to the bylaws which have since expired without replacement. The necessary changes were made to the Overview of the Issue but had not been made to the explanation.

RECOMMENDED

212. The submission from the Department of Conservation be upheld.

213. The second paragraph of A3.5 Explanation for Objectives, Policies & Methods be deleted.

Recommended Reason

212-213 The reference is outdated and no longer applicable.

OUTSTANDING NATURAL FEATURES & LANDSCAPES

A7.1 Issue

Submission

SUPPORT - Department of Conservation

RECOMMENDED

214. The submission from the Department of Conservation be accepted.

Recommended Reason

214. The submission is in general support of the proposals.

A7.2.1 Objective

Proposal

“Protection of the natural values of outstanding natural features and landscapes in the District from the effects of land use, subdivision and development.”

Submissions

SUPPORT - Department of Conservation
TrustPower Ltd - Opposed

AMEND - TrustPower Ltd
EECA - Support

Federated Farmers
Fish & Game NZ (Taranaki) - Support
Transpower NZ Ltd
TrustPower Ltd - Support
Federated Farmers - Support
EECA - Support

Commentary on Submissions

TrustPower, supported by EECA, seeks the qualification of “inappropriate” in relation to land use etc., which will keep the wording aligned with Section 6 of The Act. Their objection to the DoC support for the objective wording is on this basis. A similar point was made by Transpower.

Federated Farmers, supported by Fish & Game, seek the deletion of the words “natural values of” and the qualifier of the effects with the word “adverse”. The first point is noted as the words are in themselves redundant. The second point is noted, as other submitters have pointed out, as the objective should only relate to “inappropriate” activities.

RECOMMENDED

215. The submission from the Department of Conservation be accepted.
216. The submissions from TrustPower Ltd., Transpower (NZ) Ltd and Federated Farmers and the cross submissions from EECA, Federated Farmers and Fish & Game NZ (Taranaki) be upheld.
217. That Objective A7.2.1 be amended to state:
“Protection of the outstanding natural features and landscapes in the District from the adverse effects of inappropriate land use, subdivision and development.”

Recommended Reason

215. The submission is in general support of the proposals.
- 216-217 The amended wording aligns with the wording of Section 6(b) of the Act.

A7.3.1 Policies

Proposal

“To avoid, remedy or mitigate, as far as practicable, adverse visual impacts arising from land use, subdivision or development on the following significant landscapes in the District:

- *views of Mount Taranaki or Mount Egmont from -
 - State Highway 3; and
 - Pembroke Road; and
 - Monmouth Road; and
 - Opunake Road; and
 - Manaia Road north of Opunake Road; and*
- *views from Sangsters Hill, and from the Strathmore, Pohokura, Whangamomona and Tahora saddles along State Highway 43; and*
- *views of the Whanganui River and river valley, and the Whanganui National Park.”*

Submissions

SUPPORT - Transpower NZ Ltd

AMEND - Department of Conservation
Federated Farmers - Opposed
TrustPower Ltd
EECA - Support
Federated Farmers - Support
Transpower (NZ) Ltd
TrustPower Ltd - Support

Commentary on Submissions

DoC wishes to have areas of land which have been identified as meeting the criteria for inclusion in the Whanganui National Park included in the policy statement. Federated Farmers objects to this as the policy should only have effect when there is the certainty provided by land actually being included in the park boundaries. There is no certainty to the process of adding to the National Park, given that the process of including the additions goes back to 1995 and there remains an extensive public consultation to be undertaken.

TrustPower, with the support of EECA and Federated Farmers, seeks to have the qualifier “inappropriate” added in regard to land use etc. In this case the qualification is not required as the policy is explicitly aimed at any adverse effects on views. Whether or not a development is appropriate therefore depends entirely on the adverse effects on views which arise from that development.

Transpower, supported by TrustPower, submit that the natural features and landscapes policy should have a general statement linking the measure of what is appropriate or not back to A1.3.1, in a similar vein to their submission on the indigenous forest policies. The reasoning is to add certainty to the policy application. There is no difficulty with establishing what the policy relates to, however, as it explicitly deals with effects on views either of or from the natural features and landscapes.

RECOMMENDED

218. The submission in support from Transpower (NZ) Ltd be accepted.

219. The submission from the Department of Conservation be declined and the cross submission from Federated Farmers be upheld.
220. The submissions from TrustPower Ltd., and Transpower (NZ) Ltd., and the cross submissions from Federated Farmers, TrustPower Ltd., and EECA be declined.

Recommended Reasons

218. The submission is in support of the proposal.
219. The inclusion of areas yet to be included within the Whanganui National Park is not appropriate as this matter is still subject to a consultative process.
220. The policy is explicitly clear in what effects it is directed at.

A7.5 Explanation for Objectives, Policies & Methods

Submission

SUPPORT - Federated Farmers

RECOMMENDED

221. The submission from Federated Farmers be accepted.

Recommended Reason

221. The submission is in support of the proposal.

PROTECTED AREAS

A12 Protected Areas

Submission

SUPPORT - Department of Conservation

RECOMMENDED

222. The submission from the Department of Conservation be accepted.

Recommended Reason

222. The submission is in general support of the proposals.

A12.2.2 Objective

A12.3.3 Policy

Proposals

“A12.2.3 *To assist in avoiding, remedying or mitigating any adverse effects of land use, development, or subdivision, on protected areas administered by the Department of Conservation in the District.*”

“A12.3.3 *To avoid, remedy or mitigate the actual or potential adverse effects of the use, subdivision, and/or development of protected areas owned by Stratford District Council as reserves, in terms of the provisions of the Reserves Act 1977.*”

Submissions

AMEND - Transpower NZ Ltd
Federated Farmers - Support
EECA - Support

Commentary on Submissions

The submitters, in line with previously considered submissions, seek to limit the application of the objective and policy to inappropriate land use, subdivision or development. This then reflects the wording of the Resource Management Act.

RECOMMENDED

223. The submissions from Transpower NZ Ltd and the cross submissions from Federated Farmers and EECA be upheld.

224. That Objective A12.2.2 be amended to state:

“To assist in avoiding, remedying or mitigating any adverse effects of inappropriate land use, development, or subdivision, on protected areas administered by the Department of Conservation in the District.”

225. That Policy A12.3.3 be amended to state:

“To avoid, remedy or mitigate the actual or potential adverse effects of the inappropriate use, subdivision, and/or development of protected areas owned by Stratford District Council as reserves, in terms of the provisions of the Reserves Act 1977.”

Recommended Reasons

223-225 The amendments reflect the wording of the Resource Management Act.

A12.4.5 Method

B1.2.1.4 Discretionary Activities Rule (Rural Zone)

B1.5.2 Rule (Protected Area Zone)

Proposals

“A12.4.5 *Develop Rules, Standards, Conditions, and Terms for application in certain parts of the District, to avoid, remedy or mitigate any adverse effects of land use, development or subdivision occurring on land contiguous with the boundaries of protected areas administered by the Department of Conservation in the District, particularly (but not limited to) Egmont and Whanganui National Parks.*”

“B1.2.1.4 *Any land use, development, or subdivision taking place on land contiguous with the boundaries of any “protected area” (as defined in Part E, Definition of Terms) administered by the Department of Conservation, particularly (but not limited to) Egmont and Whanganui National Parks, other than a temporary military training activity provided for as a permitted activity in Rule B1.1.1(h).*”

“B1.5.2 *Any land use, development, or subdivision occurring on land contiguous with the boundaries of land defined in, held under, and administered in terms of -*

- *the Reserves Act 1977; or*
- *the National Parks Act 1980; or*

- *the Conservation Act 1987; or*
- *the Wildlife Act 1953; or*
- *any other Act listed in the First Schedule of the Conservation Act 1987 -*

by the Department of Conservation, shall be regarded as a discretionary activity (see Rule B1.2.1.4, Rules for the Rural Zone), other than any temporary military training activity provided for as a permitted activity in Rule B1.1.1(h).

Guideline/Explanation:

- *For an explanation to this Rule, and as a guideline, refer to Part A (Issues, Objectives, Policies, Methods, and Anticipated Environmental Results), “A12 Protected Areas” for:*
 - *the relevant policies (particularly Policies A12.3.4 and A12.3.5); and*
 - *the discussion of the issue surrounding the management of protected areas, as a background explanation to these policies and Rule B1.5.2 above.”*

Submissions

AMEND - Department of Conservation
 Federated Farmers - Oppose
 TrustPower - Oppose

Commentary on Submissions

DoC are concerned that the method only applies when land is contiguous, whereas in many cases the actual land parcels may be separated by a 20m unformed “paper” road. This applies to lengths of the Egmont National Park boundary and many areas in the Whangamomona Conservation Area and Whanganui National Park. DoC then seeks a buffer distance of 100m to define “proximity” within the appropriate rule. It is assumed that the 100m distance originates from Method A12.4.8 which encourages consultation when land use etc occurs within that distance, i.e., the gaining of Affected Persons Approvals.

Both of the cross submitters view the requested wording of the method as being too vague and Federated Farmers suggests that it is redundant due to the need for all persons to avoid, remedy or mitigate any adverse effects anyway. The 100m distance is objected to as it is overly onerous on neighbouring land owners.

The method is what provides for Rule B1.2.1.4 and Rule B1.5.2 and it is appropriate that the specific requirements are stated very clearly in the rules. The reason for the method, as stated under A12.5 “*for the District Council to control any adverse effects of land use, development, or subdivision on or near the boundaries of Crown-owned protected areas.....in the interests of achieving integrated management of protected areas*”.

The method could, however, be restated to clarify that it is directed specifically at actual or potential adverse effects on the conservation land from activities on the adjacent land.

It is noted that the rules as written prevent any activity, except temporary military training, from occurring on land adjacent to DoC land. Any activity, be it farming, building a house, operating an existing network utility or working on existing roads therefore requires consent as a discretionary activity. This is clearly inappropriate as the District Plan allows for these permitted activities both generally across the district and in specific zones because these activities comply with the District Plan standards, conditions and terms and do not generate significant adverse effects. It has also not been enforced as it is not practicable to do so. The rule should therefore exclude all otherwise permitted activities as there is no reason given in A12 for applying the method where there are no adverse effects.

Appropriate wording to allow for the separation of land by road reserve or water bodies would be to clearly identify those specific issues rather than rely on some arbitrary distance.

RECOMMENDED

226. The submissions from the Department of Conservation and the cross submissions from Federated Farmers and TransPower be upheld in part.

227. That Method A12.4.5 be amended to state:

“Develop Rules, Standards, Conditions, and Terms, for application in certain parts of the District, to avoid, remedy or mitigate any adverse effects on protected areas administered by the Department of Conservation in the District, particularly (but not limited to) Egmont and Whanganui National Parks, from land use, development or subdivision occurring on land in close proximity to those protected areas.”

228. That the eighth bullet point of Rule B1.2.1.4 be amended to state:

“Any land use, development, or subdivision taking place on land either contiguous with the boundaries of, or directly opposite any road reserve, stream or river which is contiguous with the boundaries of, any “protected area” (as defined in Part E, Definition of Terms) administered by the Department of Conservation, particularly (but not limited to) Egmont and Whanganui National Parks, but EXCLUDING any activity provided for as a permitted activity in either Rule B1.1.1, Rule B1.2.1.1, Rule B1.3.1 or Rule B1.3.2.1.”

229. That B1.5.2 be amended to state:

“Any land use, development, or subdivision occurring on land either contiguous with the boundaries of, or directly opposite any road reserve, stream or river which is contiguous with the boundaries of land defined in, held under, and administered in terms of -

- the Reserves Act 1977; or*
- the National Parks Act 1980; or*
- the Conservation Act 1987; or*
- the Wildlife Act 1953; or*
- any other Act listed in the First Schedule of the Conservation Act 1987 -*

by the Department of Conservation, shall be regarded as a discretionary activity (see Rule B1.2.1.4 Rules for the Rural Zone), but EXCLUDING any activity provided for as a permitted activity in either Rule B1.1.1, Rule B1.2.1.1, Rule B1.3.1 or Rule B1.3.2.1.””

Recommended Reasons

226-229 The amended wording clarifies the application of the proposed method and rule while acknowledging that the land areas are not always legally contiguous.

A12.4.8 Method

Proposal

“A12.4.8 *Encourage* landowners and developers to liaise with the Department of Conservation in respect of land use, development or subdivision within 100m of protected areas owned by the Department of Conservation.”

Submission

AMEND - Department of Conservation

Commentary on Submission

This is a technical submission to correct a minor error. Doc administers, rather than owns, conservation land.

RECOMMENDED

230. The submission from the Department of Conservation be upheld.

231. That Method A12.4.8 be amended to state:

Encourage landowners and developers to liaise with the Department of Conservation in respect of land use, development or subdivision within 100m of protected areas administered by the Department of Conservation.”

Recommended Reason

230-231 The amendment corrects a technical error.

B1.2.1.3 Rule Limited Discretionary Activities (Rural Zone)

B1.2.1.3.1(c) Matters over which Discretion is Reserved

Proposals

“B1.1.1.3

- *Goat farming within 1km of the boundaries of Egmont and Whanganui National Parks.”*

“B1.2.1.3.1(c)

For the goat farming specified in Rule B1.2.1.3:

- *conditions relating to compliance with the applicable Standards, Conditions, and Terms in Part B.2; and*
- *the location of the proposal;*
- *fencing or any other requirements aimed at avoiding, remedying or mitigating the risk of inadvertent escape of goats; and*
- *the requirement of financial contributions; and*
- *the payment of administrative charges*
- *effects on adjoining protected areas*
- *the completion of works and services which may be, but are not limited to, those works and services detailed in Section C2 of this plan.”*

Submissions

SUPPORT - Department of Conservation
Federated Farmers - Oppose

AMEND - Royal Forest & Bird Protection Society of NZ
Federated Farmers - Oppose

OPPOSED - Federated Farmers

Commentary on Submissions

DoC supports the rule and Federated Farmers opposes that support as they are unsure as to what purpose is achieved by the rule. Federated Farmers also made a submission seeking the removal of goat farming within 1km of the National Parks as an exclusion from the permitted activity rule, B1.2.1.1. In contrast the RFBPSNZ seek to have the exclusion extended to a distance of 7.0km as it is for deer farming.

The rule has been carried over from the operative District Plan and, as stated in the specified discretions for the rule, the primary purpose is to place conditions which allow for the avoidance, remedying or mitigating of the inadvertent escape of goats. The deer farming exclusion distance is greater as this is covered by specific regulation under the Wild Animal Control Act 1994.

Federated Farmers suggest that goat farming should be permitted where goats are tethered or contained by a goat proof fence. The rule, however, raises the level of significance in the Plan of the activity and allows for more rigorous enforcement when goats do escape.

RECOMMENDED

232. The submission from the Department of Conservation be accepted and the submission and cross submission from Federated Farmers and the cross submission from the Royal Forest & Bird Protection Society of NZ be declined.

Recommended Reason

232. The purpose of the rule and standard is clear from the discretions which apply to the rule and the rule is appropriate to allow management of goat farming in proximity to the National Parks in contrast to the limitation on deer which is in response to specific regulation.

B1.2.1.6 Rule Prohibited Activities (Rural Zone)

Proposal

“Deer farming within 7km of the boundaries of Egmont National Park.

Explanation

Clause (e) of the Second Schedule of “Deer Farming Notice No.3 1980” , issued pursuant to Section 12A of the Wild Animal Control Act 1977 (and included in the subsequent Wild Animal Control Amendment Act 1994), and administered by the Department of Conservation, explicitly prohibits deer farming within 7km of the Egmont National Park boundary. Rule B1.2.1.6 above is to ensure that the District Plan is consistent with these regulations.”

Submissions

SUPPORT - Department of Conservation

RECOMMENDED

233. The submission from the Department of Conservation be accepted.

Recommended Reason

233. The submission is in general support of the proposals.

6.4 **Significance**

The decisions on submissions are significant in terms of the Policy on Significance in that they potentially affect the community at large through the District Plan. In turn, these decisions can affect the ability and cost to Council of being able to carry out its resource management responsibilities.

The review of the District Plan has been subject to consultation as required by the Act.

6.5 **Prioritisation & Trade-off**

The consideration of this report has no direct impact on Council's ability to deliver its services or on its funding ability. The decisions, as noted, are part of the review process which must be released by Council within two years of notifying the proposals to meet the time restrictions of the Act.

6.6 **Specify Nature of Decision Required**

Council is required to make its decisions on the submissions received and to provide reasons for those decisions. The release of the decisions will be deferred until all of the submissions made have been considered.

6.7 **Sustainability**

"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs".

The administration of the Stratford District Plan is a primary means of ensuring the encouragement and regulation of sustainable development within the district.

7. **RECOMMENDATIONS**

1. THAT recommendations 153A to 233, as contained within this report, be approved.
2. THAT the review of the Indigenous Forest rules be brought forward in the approved rolling Review Programme for the Stratford District plan to commence directly following notification of the Stratford District Plan 2009.

Recommended Reason

1. The reasons for each recommendation are provided within this report.
2. The review is required urgently to address potential inconsistencies relating to the management of indigenous forests under the District Plan and to give effect to Method A2.4.3

M R Avery
PLANNING & REGULATORY MANAGER

Approved by
M R Freeman
CHIEF EXECUTIVE

DATE