

Hearing statement

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To: Rotorua Lakes Council
Hearing Panel

Regarding: **Proposed Plan Change 3**

Date: 18 February 2020

Statement by: Rotorua/Taupo Federated Farmers

Federated Farmers welcomes this opportunity to present to the Hearing Panel as part of the proposed Plan Change 3 ('PC3') submission process.

My name is Hilary Walker I am a Senior Policy Advisor with Federated Farmers and with me today is Neil Heather, Neil is here on behalf of Colin Guyton, Rotorua/ Taupo Provincial President, who could not make it unfortunately and sends his apologies. Neil is an experienced campaigner who has been involved in Council planning process more than he would care to remember I'm sure. Neil had SNAs and ONLs mapped over his property during the first round of the District Plan review and represented FFNZ during the Environment Court mediations.

With me also is Karen Barker, farming at 164 Short Road and Steve Uttinger who farms at 388 Maleme road - both have new SNAs proposed over their farms.

Federated Farmers made submissions and further submissions on Plan Change 3 because we have members who are directly affected by this process, we are involved in these district plan process around the country and are happy to share our institutional knowledge on behalf of our members - your ratepayers.

Our comments are representative of member views and experiences with the management of resources within the Rotorua lakes district. It reflects the fact that resource management and District Council policies and plans impact on our member's daily lives as farmers, members of the local community, landowners and ratepayers

Today I will summarise Federated Farmers position with regards to Plan Change 3, identifying where there is support for the planning recommendations and where there are remaining issues or concerns. Karen and

Steve will talk through their experiences as directly affected landowners to remind the Panel that this is not just about ecology, lines on maps have the most meaning for those who live, work and play in these environments which are both their homes and livelihoods. Lines on maps mean something and so it is essential to get them right.

With the exception of the examples we are using today, we will not be commenting on specific SNAs, our position has broad application - for example ensuring the mapping is as accurate as possible and that owners continue to be given the opportunity to have sites ground truthed, and ensuring RLC commits to prioritising funding for education and incentive schemes.

Our specific hearing support examples cover a useful range of scenarios:

- Not included in notified plan - a portion of SNA 660 that, post landowner consultation, was not included in the notified Plan but relief has been sought from Director-General of Conservation (sub 8.30) to include it;
- In notified plan but s42A recommendation for it to be removed - a portion of SNA 585 that was notified but through the submission process and subsequent re-assessment, is recommended to be removed;
- In notified plan, recommended to remain as notified - a portion of SNA 703, which is difficult to understand why it meets significance criteria, no ground truthing to date – this is option is sought.

Summary of position

Federated Farmers understands the purpose and intent of PC3 and through our submission sought subsequent changes to support the proposed amendments and improve equitable outcomes for newly affected landowners.

Federated Farmers know Rotorua Lakes Council has obligations to protect significant indigenous vegetation and significant indigenous fauna under Section 6 of the Resource Management Act. We understand the relevance of the Regional Policy Statements and assessment against ecological criteria. We believe that farmers want the same outcomes as Rotorua Lakes and the Waikato and Bay of Plenty Regional Councils, in that significant areas are protected in a way that is practical and affordable, for both landowners and for Councils.

We want to remind the Panel that not being captured within the SNA overlay does not leave these sites exposed and vulnerable, despite the assertions made by Bay of Plenty Regional Council (sub 2.01, 2.02) and Director-General of Conservation (8.02) generally but more specifically by the Waikato Regional Council that “removing SNA status means sites are not subject to policies or rules of the district plan” (sub 34.01). Federated Farmers lodged further submissions to register our opposition against these assertions.

There are a range of policies and rules at both regional and district plan level which focus on indigenous biodiversity in the broadest sense not only those sites identified as SNAs. The s42A Hearing report outlines at paragraph 4.2, the range of provisions in Regional Plans which provide protection to indigenous biodiversity across a range of ecosystems, from a range of land use activities. Appendix two of the section 42A report provides extracts of the District Plan objectives, policies and rules that apply to land identified as a SNA. However, it is perhaps more relevant to counter these submission arguments by referring to the objectives,

polices and rules which apply to land and areas of indigenous biodiversity not identified as an SNA, including the strict vegetation clearance performance standards.

These provisions are provided as an Appendix to this hearing statement, we encourage the Panel to review the provisions as we believe they will give the Panel confidence in the planning recommendation to reject those submission points.

It is widely accepted that the best way to achieve biodiversity gains is through using a suite of regulatory and non-regulatory methods. Over reliance on regulatory methods jeopardises landowner buy-in and fails to address the biggest risks to these sites, namely a lack of understanding as to what is there and assistance with ongoing pest management. It is accepted that the identification and consultation process can be difficult and resource intensive, but in our view best practice processes are required to justify the public good that is currently provided at the expense of private landowners. Prioritising non-regulatory methods within the context of this Plan change will be covered in more detail later in this statement.

Essentially, we ask for the hearing panel to:

- Retain the amended boundaries which have been reassessed and revised with landowner support.
- Ensure ongoing opportunities for ground truthing is provided to landowners wanting to better understand the values of their site.
- Remove SNA sites which are subject to alternative legal protection.
- Future proof the intentions of the plan change and provide equitable outcomes for landowners whose sites become subject to alternative legal protection at a later date.
- Ensure weight is given to the acknowledgement that education and non-regulatory incentives are important tools to achieve biodiversity gains and meet council's responsibilities to both landowners and the environment.
- Provide the same opportunities to landowners affected by this process as were given to landowners via the operative District Plan.

Common Ground

We broadly support the process used to get PC3 to this point and strongly support the subsequent re-assessment of some SNA boundaries. Taking the opportunity to remove unnecessary, duplicated controls over SNAs which are subject to other legal protection is also supported. The s42A report reasoning at paragraph 5.55 is consistent with our understanding that there is limited risk of removal or variation which would reduce the protection provided under these instruments. We are pleased to see our submission point to future proof the plan with regards to future covenanted sites is considered to have merit (para 5.59) and accept that this issue may have to be parked until the draft NPSIM is finalised.

The s42A report positions outlined at paragraph 5.20 (3) and (4) are strongly supported. We believe it shows that RLC is focused on the bigger picture and longer-term gains. We fully support RLC in this collaborative approach, it will provide landowners with some confidence that their issues are being understood and addressed where possible. It will help to foster the sense of good will required to achieve optimum protection for the remaining areas.

With regards to the implications of the draft National Policy Statement Indigenous Biodiversity (NPSIB) we support the planning recommendation at paragraph 5.5 and agree with the assessment that the final shape of the national policy statement is yet to be determined, and its implications will require significant consideration.

The s42A recommendation with regards to performance standards for existing grazing at paragraph 5.80 is supported.

Remaining areas of concern

- Identification and mapping

When lines on maps are used as the trigger to determine what can and can't happen within those lines, we cant over emphasise how important it is to get the identification and mapping right. We know it is not an easy process and you have to start somewhere, but nothing annoys a landowner more than receiving a map in the post which is either at too small a scale to be able to readily decipher the information or identifies areas which, for those with intimate knowledge of the area, makes no sense.

It is vital for landowners to have confidence where the boundaries are and be able to translate these from the map onto the ground, because there is a regulatory implication if they cant.

Information regarding specific sites seemed to vary in the level of detail, with some landowners telling me they didn't know why a site had been identified and didn't know what it would mean for their farming businesses. This is why FFNZ strongly supports ground truthing, if a landowner wants it, and endorses the starting point of the draft NPSIB which is that all sites will be identified using ground truthing rather than remote desk top analysis techniques.

This would provide assurance to landowners that their site does meet a significance criterion and may encourage more voluntary management if they understand why it is so special. It is accepted that an 'on the ground' assessment is not always required as reasoned in the s42A report at para 5.85. Our point is that the opportunity for review should be enabled if sites are disputed and ground truthing undertaken if more knowledge is required – this creates a win win for both council as their database improves and the landowner.

- **Incentives / scope to include**

Section 32 Report, Incentives and Support - key recommendations

- Investigate during the preparation of the next Long Term Plan a contestable incentive fund for the restoration and protection of SNAs (section 3.5.1)
- Consider amending rates remission policy for the next Annual Plan (section 3.5.2)
- Council's policy on fees and charges should be amended to provide no charge for applications for consents related to conservation, restoration and protection of SNAs (section 3.5.3)

Federated Farmers submits that strong links between the District Plan, and Long Term/Annual Plans are required.

Federated Farmers strongly supports the recommendations made within the Section 32 report, Incentives and Support at section 3.5 and summarised at section 6.2. However, a strong link between the planning and funding documents is required to inform LGA funding decisions. We have serious concerns that without that link these worthy intentions have no certainty and may be difficult to advance.

Federated Farmers understands that ultimately it will require changes to the policies and funding sources outlined in the Long Term and Annual Plans to enable this incentivising approach, but advise that district plan provisions can be used to support, guide and improve transparency regarding long term, unchanging environmental goals and what funding commitments made be required to meet them.

Other Councils use the two-pronged approach we are asking for as part of the tool kit used to meet RMA responsibilities. They use the LTP process to allocate funding for grants or waive consent fees and charges and the District plan to include non- regulatory methods in the range of options being used to meet biodiversity responsibilities.

Part of the reasoning used in the Section 32 Efficiency and Effectiveness to achieve Objectives analysis, included recommending sites for inclusion in Appendix 2, as becoming an SNA may help increase awareness of the values and the potential for incentives and assistance. This reasoning is understood (if the significant criteria is reached), but requires action from Council to ensure those benefits are realised both for the landowner and for biodiversity gains.

To date RLC has not prioritised these actions and that needs to change if the reasoning is going to be justified. The suggestions made in our relief sought provide the necessary amendments required to give weight and follow through to the Section 32 reasoning. It is for this reason that we believe there is scope to include our relief sought and do not agree with the s42A recommendation (para 5.70) to reject our submission.

This concludes my part of the presentation I will hand you over to Karen and Steve to speak to their specific sites

APPENDIX ONE – ROTORUA LAKES COUNCIL EXTRACT DISTRICT PLAN GENERAL PROVISIONS – RURAL ZONE

OBJECTIVE

- Objective 9.3.1 A reduction in nutrient losses from rural land uses to improve the water quality of lakes, rivers, streams and wetlands, indigenous biodiversity and ecosystem functions.

POLICIES

- Policy 9.3.1.1 Manage the adverse effects of new rural land use activities within the lake and river catchments that have the potential to increase nutrient losses into streams, rivers, wetlands and lakes.
- Policy 9.3.1.2 Encourage land use and land management changes that achieve a reduction in nutrient losses and provide for restoration and enhancement of indigenous biodiversity and ecological functioning.
- Policy 9.3.1.3 Promote indigenous re-vegetation, including the legal protection of land and riparian areas that contribute to improving water quality, in particular on land that is:
 - ☐ Susceptible to erosion
 - ☐ Along lakeshore and other riparian margins
 - ☐ Adjoining already protected features
 - ☐ In an area of existing indigenous vegetation or biodiversity, or where indigenous vegetation fragments can be reconnected as an ecological corridor
- Policy 9.3.1.4 Require the re-vegetation of gullies and wetland areas to assist both in filtering runoff and in reducing the nutrient level in stormwater before it enters water bodies.
- Policy 9.3.1.5 Require the on-going management of retirement areas so that vegetation is established, well maintained, and pest plants and pest animals are managed through conditions of resource consent.
- Policy 9.3.1.6 Promote the change from high nutrient producing activities to other rural activities to offset the adverse effects on water quality.
- Policy 9.3.1.7 Ensure that land use change intended to improve water quality remedies or mitigates adverse effects on indigenous biodiversity and rural amenity, particularly for changes within the sensitive rural area in the Rotorua caldera.

ENVIRONMENTAL OUTCOMES

- 9.4(5) No net loss of characteristics, values or significance of indigenous biodiversity, significant habitats of indigenous fauna or ecological functions in the rural zones

RULES

- Rules 5. Agricultural production activities = Permitted
- Rule 110. Removal of indigenous vegetation or earthworks within riparian margins unless otherwise provided for within this part, Rules 9.5.108, 9.5.109, 9.5.111, 9.5.112 or Appendix 10 -Earthworks = D
- Rule 122. Removal of indigenous vegetation on land identified on the Planning Maps as bio-vegetation areas = RD

PERFORMANCE STANDARDS

- 21. Removal of Indigenous Vegetation Removal of indigenous vegetation shall be subject to the following:
 - a. The vegetation can be removed for any of the following purposes:
 - i. Normal domestic scale trimming and maintenance;
 - ii. The maintenance of walking tracks;
 - iii. The collection of plant material by the tangata whenua for maintaining traditional practices of rongoa (medical purposes), raranga (weaving) and Mahi whakairo (carving);
 - iv. The clearance and control of pest plants (included in the Bay of Plenty weed index or national pest plants accord); and
 - v. Normal farming practices to maintain farm tracks, fences, culverts and pasture, including from invasive regrowth.
 - vi. Incidental removal via the pastoral grazing activities in an Outstanding Natural Feature and Landscape.

9.8.2 ASSESSMENT CRITERIA FOR SPECIFIC ACTIVITIES

- 9. Removal of Indigenous Vegetation on Land Identified on the Planning Maps as Bio-vegetation Areas An ecological assessment by a suitably qualified expert is to be submitted with an application for resource consent. Council shall restrict its discretion to the following matters:
 - a. The extent to which the removal of vegetation will:
 - i. Contribute to the cumulative loss or degradation of indigenous habitats and ecosystems;
 - ii. Fragment or isolate indigenous habitats and ecosystems;
 - iii. Adversely affect corridors or connections linking indigenous habitats and ecosystems, ecological sequences, migratory pathways, water quality, ecosystem services;
 - iv. Adversely affect the extent and quality of indigenous habitats and ecosystems; or
 - v. Result in an increased threat from plant or animal pests.
 - b. The extent to which the proposal will promote positive indigenous biodiversity outcomes including through enhancement, restoration and pest control.
 - c. The extent to which those areas/ecosystems that support (including through buffering and/or linking) habitats and areas identified as significant natural areas are maintained.
 - d. The extent to which tangata whenua relationships with indigenous biodiversity including their holistic view of ecosystems and the environment will be maintained or enhanced.
 - e. The extent to which the removal of vegetation can be mitigated through the application of the “no net loss” principle.
 - f. The extent to which the removal of vegetation will adversely affect the restoration and protection of the health and wellbeing of the Waikato River and its catchment.
 - g. The management of the density, range and viability of indigenous flora and fauna.

h. The consideration and application of biodiversity offsets as a means to achieve no net loss where significant residual adverse effects are unable to be avoided, remedied or mitigated.

i. The location, nature, scale, timing and duration of the activity.

9.9 DISCRETIONARY ACTIVITIES: METHOD OF ASSESSMENT

- 18. The positive effects of revegetation, retirement and legal protection of land and riparian areas, re-vegetation of gullies and wetland areas and the management and maintenance of retirement areas.
- 21. The extent to which the proposal contributes to indigenous biodiversity, ecosystems, the protection of significant natural areas



**FEDERATED
FARMERS**
OF NEW ZEALAND

**Proposed Plan Change 3
Significant Natural areas**

Rotorua Lakes Council hearing - 18 February 2020

Rotorua/ Taupo Federated Farmers - Hearing
support presentation

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Summary of position

- Understand the purpose and intent of PC3
- A site being identified as an SNA has serious (and potentially uncertain) implications
- Vital to get the identification and mapping accurate
- With improvement to indigenous biodiversity outcomes being the goal - non regulatory methods need more priority



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Support extended to pragmatic approach

- Whilst the criteria used to identify sites is provided by the RPSs
- RLC has discretion as to how they discharge their Section 6(c) and Section 31(1)(b)(iii) responsibilities under the RMA.
- Landowner buy-in is critical in achieving protection and maintenance goals
- Duplicating controls over sites which have alternative legal protection and not at risk is counter productive
- Re-assessing sites to better reflect on realities on the ground is supported



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Support extended to pragmatic approach

- Useful example – SNA 660 as it applies to a property located at 328 Dudley Road
- During pre notification consultation, the landowner and council staff reached a pragmatic compromise
- Pages 104- 106 of the s42A report refers.
- The notified area of SNA 660 did not include a portion of bush - DoC considers it should because the site adjoins conservation land and meet RPS criteria
- It is disputed that the site adjoins DoC estate
- The following is an extract from the s42A and photos which support the recommendations



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Extracts from s42A

Pre notification

- c50% of the new area being considered at 328 Dudley Road comprises a fenced off area with good understory. It also extends to an unfenced area to the west that provides shelter/shading for stock as part of a larger paddock; and also a smaller fenced area behind the stock yards with no understory and used to provide shelter for animals in poor weather. The owner seeks that whole area be excluded from the SNA, or at least be limited to the existing fenced-off area. The owner is adamant there should be no further consideration of additional areas in the future – it has already been too much stress and it would be unreasonable to revisit the extent of the SNAs again.

Submission Evaluation

It is considered that including the new area (of approximately 2 hectares) identified at 328 Dudley Road would not be the most appropriate way to achieve the purpose of this plan change. The area at issue is only a small portion of the SNA. Much larger parts of this SNA are already scheduled on this property (**approximately 48 hectares, which is 27% of the property**).

Consultation with the owner suggests management of the farm has been carried out with careful attention to the District Plan rules and where existing use rights for grazing do and do not apply. Although the costs of the scheduling the additional area would be primarily about the sense of ownership, rather than economic, it is considered that it would affect landowner support for the protection of the areas and acceptance of the regulation. The owner views the inclusion of additional areas as unreasonable

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pragmatic approach supported



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Accurate identification

- SNAs are subject to strict land use controls
- Understood and accepted if the site contains values which meet RPS criteria
- Important to have opportunity for re-assessment or ground truthing of notified sites, if accuracy is disputed by landowners
- The submission process has worked well for a number of landowners who have sought re-assessment, with useful changes recommended within the s42A report

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Proposed SNA 585

388 Maleme road

- Wildlands have reviewed the mapping on 388 Maleme Road using oblique aerial photography and recommend that most of the SNA be removed from this property as shown on page 93 of s42A report
- The recommendation is supported and we ask the hearing panel to accept the changes proposed in para 5.232 for 388 Maleme Road.

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Proposed SNA 585 388 Maleme road



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Proposed SNA 703 164 Short Road

- Site 703 is large site predominately CNI treaty settlement land with minor extensions into farms at 674 Rawhiti Road and 164 Short Road.
- It is the extensions on onto farm-land have which are of concern to the affected landowners
- The area identified over private land has not been ground-truthed
- Ground-truthing is requested



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Proposed SNA 703
164 Short Road



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