

SUBMISSION

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To: Thames Coromandel District Council.

Submission on: **Proposed Thames Coromandel District Plan – Hearing 6 Earthworks Biodiversity and Subdivision**

Date: 12 February 2015.

Submission by: Federated Farmers of New Zealand.

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1. Introduction

Federated Farmers welcomes the opportunity to present this submission to the Hearing Panel on the Thames Coromandel Proposed District Plan.

My name is Sally Millar, and I am a Regional Policy Advisor for Federated Farmers. I provide policy advice for the Waikato and Hauraki Coromandel Provinces of Federated Farmers. I am from a dairy farming background having farmed in Northland, Waikato and Bay of Plenty. Since 1997 I have worked in the area of resource management and environment for the farming sector with Federated Farmers, Dairy NZ and as a private consultant.

I have gained considerable experience over that time in the implementation of the Resource Management Act and its effect on farmers at a regional and district level.

Federated Farmers is a not-for-profit primary sector policy and advocacy organisation that represents the majority of farming businesses in New Zealand. Federated Farmers has a long and proud history of representing the interests of New Zealand's farmers.

The Federation aims to add value to its members' farming business. Our key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:

- Our members may operate their business in a fair and flexible commercial environment;
- Our members' families and their staff have access to services essential to the needs of the rural community; and
- Our members adopt responsible management and environmental practices.

Our submissions are representative of member views and reflect the fact that resource management and government decisions impact on our member's daily lives as farmers and as members of local communities.

Farming has a strong presence in the Thames Coromandel District and our members seek to uphold and enhance the value of farming in the Thames Coromandel District. Our presentation is representative of member views and experiences in relation to the management of resources within the Thames Coromandel District. It is important that this presentation is not viewed as a single submission, but rather as a collective one that represents the opinions and views of our members.

As an organisation, Federated Farmers takes an interest in this Proposed District Plan because we are concerned to see that the interests of those who rely on the District's land based resources are adequately protected. District Plans are important to the farming sector. They should be as permissive as possible, and they should allow routine and essential farming activities that are an accepted part of environmental practice to be undertaken without the necessity of obtaining resource consent. Such rules as may be necessary should be understandable and workable.

The Topics covered in our presentation today are:

- **Earthworks**
- **Biodiversity**
- **Subdivision**

2. Earthworks

Federated Farmers made submissions on the Earthworks provisions in the Rural Zone and Coastal Environment. Our submissions focussed on ensuring that earthworks provisions allowed for earthworks that are part of a normal farming activity be permitted.

Since making our submission we consider that we misinterpreted the provisions of Rule 6 in Section 56 and that as written do appropriately provide for earthworks that are normal farming activities as permitted activities.

We also consider from our interpretation that the further provisions in relation to the Coastal Environment as set out in Table 3 of Rule 6 are appropriate and allow normal farming activities to continue as permitted. We however accept these provisions on the proviso that 6.1 (c) which allows for land cultivation and domestic gardening overrides the restriction in Table 3 that limits the area of earthworks per site per year to 1 hectare. This is because land cultivation for crops and pasture renewal will generally be on areas larger than 1 hectare. We consider that requiring a resource consent for such activities onerous given the effects that are to be controlled by the earthworks rules are minor or non-existent for cultivation activities.

Federated Farmers supports the recognition that the management of earthworks and soil disturbance is predominantly the responsibility of Waikato Regional Council.

Federated Farmers submits that the intent of Table 3 in relation to activities in the Coastal Environment is clarified so that it does not override the permitted activity status of 6.1(c) in relation to on farm cultivation activities.

Federated Farmers further submits that the balance Earthworks provisions as proposed in the Plan and the amendments recommended in the S42A report be adopted by the Hearings Panel.

3. Biodiversity

3.1. Background

Federated Farmers recognises the importance of our indigenous biological diversity as an important component of our identity as New Zealanders. We encourage active protection to enhance our indigenous biodiversity for everyone to enjoy.

Farmers around the country spend millions of dollars each year on actively managing areas through weed and pest control, fencing and regeneration through planting and enhancement. The rate at which landowners are queuing up to formally covenant special areas on their farms has grown exponentially in the last ten years.

Federated Farmers members are extremely proud of their work and achievements on their farms to protect and enhance indigenous vegetation. It is this ethos that Federated Farmers considers should permeate local government policy and plans.

Farmers in some areas rely on the routine clearance of regenerating indigenous plants to maintain existing pasture improvements. This does not mean they are clearing large tracts of native bush. It is incredibly important to their farm businesses they can maintain the ability to cost effectively remove and control indigenous regrowing plant species.

We believe councils should work in partnership with landowners to protect and enhance biodiversity in preference to regulation. Federated Farmers strongly supports and acknowledges the existing investment in partnerships, with two key agencies working with landowners to enhance and protect our special places and things, QEII Trust and Landcare Trust.

If the Council is serious about protecting indigenous vegetation, then it must be willing to invest, on behalf of all ratepayers, in more weed and pest control in

supporting partnerships with landowners through the QE II Trust, Landcare Trust and local government.

3.2. 6.2 Issues

Federated Farmers made several submissions in relation to the issues in 6.2. As a result of our and other submissions several amendments are proposed in the s42A Report.

In relation to Issue 1 we sought that it was recognised that not all subdivision use and development would result in the loss of indigenous biodiversity in the District. We accept that the proposal to insert the word “can” will address our concerns.

We note however it is proposed to delete the words “in the value” of the Districts indigenous biodiversity from this issue and throughout Section 6 and Section 29. Federated Farmers is of the opinion that referring to the values of biodiversity that are to be maintained or enhanced is important and should be reinstated. The values of biodiversity while not specifically referred to the Waikato Regional Policy Statement (WRPS) are the intent of Policy 11.1 of the WRPS. The importance of recognising “the value” is to ensure that biodiversity protection is not limited to a purely spatial context. In recognising “the values” of biodiversity requires the consideration of what is actually trying to be protected and in doing so may allow a functional use or even partial clearance in a way that does not negatively impact on the values that need to be protected.

Federated Farmers submits that the term “values” in relation to biodiversity be reinstated where it has been deleted through Section 6 and Section 29 and any further consequential amendments that may be required.

In relation to Issue 3 we consider that the amendments improve the readability however consider it would be further improved by amending so that it reads;

“The health and ecological functioning of ~~remaining~~ biodiversity and areas of indigenous vegetation that remain requires restoration, enhancement and protection....”

In regards to new Issue 4 we recognise that areas which meet this policy are likely to include areas of exotic vegetation that provides a habitat for threatened or at risk species. As written we have concerns that Issue 4 has potential to be interpreted that all potential areas of habitat for these species will need to be protected. We consider that at the outset the issue should limit exotic vegetation to areas where these species are actually found and be mindful of the functional use of the vegetation such as forestry.

Federated Farmers submits that Issue 4 is rewritten so that it only applies to areas where the Threatened or At Risk species are actually found. Further where these areas are production areas such as forestry or farmland it recognises and does not limit that functional use.

3.3. Objective 1

We accept the amendments to Objective 1 but make the comment that we consider indigenous ecosystems is a subset of biodiversity and is therefore redundant and could be deleted.

3.4. Policy 1aa

Policies 1a and 1b of the proposed Plan have been rewritten to 1aa and 1a. Policy 1aa now focusses solely on significant indigenous vegetation. Federated Farmers considers that the intent of the Policy is appropriate in regards to significant indigenous vegetation but make the following comments.

It is not the subdivision use and development that protects areas of significant indigenous vegetation and the opening of the policy should be re written to;

Subdivision, use and development shall ensure that ~~protect~~ areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected by;

While these provisions are considered to be appropriate at a policy level it is difficult for our membership to assess what impact, including the subsequent rules, may have on their property and business due to not knowing whether the indigenous vegetation on their farms is significant or not. While the areas have been identified

as potential Significant Natural Areas are identified in the Waikato Regional Council Technical Report they have not been ground truthed. Under this Proposed Plan the lack of certainty for the landowner can only be resolved by applying for a resource consent when the areas will be assessed and determined as to their significance.

Federated Farmers considers that on application to Council an ecological assessment should be undertaken without the need to make a resource consent application.

To assist with readability we consider the second group of a) – c) in relation to offsets should be numbered differently to avoid confusion and suggest i) – iii)

3.5. Policy 1a

Federated Farmers considers Policy 1a appropriate in regards to non significant indigenous vegetation but has concerns in regards to 1a (b) that seeks to provide a buffer around areas of indigenous vegetation. In our submission we sought the deletion of this policy provision.

Federated Farmers considers that a buffer creates significant uncertainty for landowners and the ability to use their land given there is no indication of the extent of a buffer that is required or what controls would be required in the buffer area. Federated Farmers believes that a buffer is a blunt instrument and there is no clarity as to what outcome is sought to be achieved. Further there is no consideration of other management methods that could more efficiently achieve the desired outcome such as weed and pest control.

Federated Farmers accepts that it may be appropriate to provide for a setback from the margin of a wetland, say 10m, but considers that this can be achieved through Policy 1a (a) "to retain the viability, integrity and sustainability..."

Federated submits that Policy 1a(b) is deleted.

To assist with readability we consider the second group of a) – e) in relation to offsets should be numbered differently to avoid confusion and suggest i) – v)

3.6. Policy 1c

Federated Farmers supports this policy to encourage the ongoing protection and enhancement of indigenous biodiversity through the incentive of allowing subdivision lots to be created. We however consider it should include any area that has met the criteria for significance, not just the instances listed in a) to i). The criteria for determining significance as described in the Waikato Regional Policy Statement 11A have been accepted not just in the Waikato Region but a generally accepted nationally for identifying areas to be protected under section 6(c) of the RMA. We can see no justifiable reason for them to not be included in Policy 1c) given that some of the areas that would qualify for a subdivision incentive under 1(c) may not necessarily be areas that are significant.

Federated Farmers submits that Policy 1 c) is amended by adding;

“j) area that meet the Waikato Regional Policy Statement 11A criteria for determining significance of indigenous biodiversity”

3.7. 29.1 Background

Federated Farmers generally agrees with the amendments made to 29.1 that outlines how areas of indigenous vegetation are determined to be significant. We support that areas must be ground truthed before areas that have been identified as potentially significant in the Waikato Regional Council Technical Report can be confirmed as such. It is our experience in other Districts that ground truthing can show up in some cases potentially substantial errors that confirm the areas are in fact not significant or need boundary adjustments.

Federated Farmers submitted that the cost of getting the ecological assessment should be borne by Council given the wider community benefit in the identification of significant natural areas.

The s42A report provides support for our position that *“private landowners should not have to bear the financial burden for ground truthing”*. The report however noted that funding is better integrated with the Councils annual and long term planning documents. While we accept that the Proposed Plan cannot bind the budget process of the Annual and Long Term Plans we consider that the Proposed Plan can and should flag to the Plan user to refer to the Annual Plan for funding assistance that may be available for these assessments.

We consider that this can be done as an advisory note such as;

Funding assistance for the ecological assessment will be provided for through the Annual Plan process. Council should be contacted for further information.

The s42A report also supports that non regulatory assistance should be available for landowners who have significant areas on the properties and notes that the Biodiversity Strategy is the best mechanism for identify and promote such support. The report notes that the Biodiversity Strategy is currently under review.

The Waikato Regional Policy Statement requires that biodiversity strategies are to be developed at a district scale working with stakeholders and affected landowners and will include the appropriate non regulatory methods.

Federated Farmers considers it is appropriate that the Proposed Plan indicates that Council will use non regulatory methods to enhance the protection and management of indigenous biodiversity through its Biodiversity Strategy.

Federated Farmers submits that the Proposed Plan identifies that there will be a Biodiversity Strategy and indicates what the strategy will include as per the Waikato Regional Policy Statement.

Federated Farmers submits that 29.3.2(h) and (i) be amended by deleting 3.5m and substituting 4m.

3.13. 29.3.2(m) works in riparian area

29.3.2(m) provides for the protection of indigenous vegetation within 10m of a permanent waterbody 1m wide. Our concern relates to that the definition of waterbody also includes farm drains and as written would restrict the removal of indigenous pest species in pasture. Federated Farmers preference for this provision would be to limit its effect to identified waterbodies of concern and also notes that Waikato Regional Council has controls in regards to activities that can occur in the riparian area.

Federated Farmers submits that 29.3.2(m) is limited identified waterbodies rather than all waterbodies that include farm drains.

4. Subdivision

4.1. Federated Farmers National Position

Federated Farmers national position on subdivision is that we advocate for the protection of productive land to ensure primary production is able to continue. To this end we support the intent of the subdivision provisions for the Rural Zone of the Proposed Plan to ensure the long term viability of the agricultural sector.

However Federated Farmers also supports our members individual property rights and the right for an individual to decide what is the best use of their property, as long as that use does not impact on another's rights.

Subdivision and the mechanisms for control brings both these factors into play at the same time and Federated Farmers seek to ensure that policy approaches used by district councils recognise and allows these often perceived competing principles to be achieved.

As an organisation Federated Farmers believes that council subdivision and development polices and planning should provide for managed growth in rural communities. While we acknowledge that the loss of productive land can impact on

a district's economy, there is also a need to recognise that farmers undertake small lot subdivision to provide for farm succession, dispose of surplus dwellings, for providing on-farm accommodation for employees, as well as releasing capital to allow further economic development of the remaining farm.

It also needs to be acknowledged that considered well managed growth in rural communities provides for diversity and vibrancy in rural areas, sustains essential community infrastructure, and provides employment flexibility and opportunities not to mention that growing community ensures a growing rating base.

We also consider that it is not Councils role to determine what an appropriate land use is for a particular land use capability class and or to base subdivision policies on that classification.

Federated Farmers also acknowledges its membership will face different drivers and issues depending on the region, district or community that they live within New Zealand and these need to be acknowledged and recognised in developing local policy responses.

4.2. General Comments

Federated Farmers has read the s42A Hearing Report in relation to the Policy (Section 16) and the Provisions (Section 38) for subdivision. We generally agree with the proposals for amendment in the 42A report and will limit our comments to;

- **Policy 11a; and**
- **Boundary Adjustments 38.4.2.1(a)**

4.3. Policy 11a

Federated Farmers submitted in support of the Objective 11 and the subsequent Policies 11a – 11b. We considered that the Objective and Policies reflected our position on subdivision and provided a balanced approach that recognised the need to protect high class or versatile soils with the need continue to allow managed growth that results from subdivision.

Federated Farmers also considered that Objective 11 and the Policies 11a and 11b as proposed set appropriate guidance for the Rule regime in the Rural Zone as provided for in 38.6 Rule 9 that allows subdivision as a discretionary activity using a minimum average lot area methodology.

Federated Farmers supports the minimum average lot method as it allows flexibility of approach is allows farmers to provide for succession planning etc. and the selection of lot sizes best suited to the subsequent land use as described above while ensuring the protection of high class soils for production purposes.

Federated Farmers understand the reasoning of the amendments proposed in the s42A report to provide consistency in approach in the Plan layout and framework; however we have concerns in regards to the amendments to the Policies of Objective 11.

As written Policy 11a no subdivision is allowed that would reduce the availability of high class soils unless it is for biodiversity enhancement purposes. Therefore under Rule 9 of 38.6 subdivisions this policy would prohibit by the words "shall not" subdivision for succession or retirement lot purposes where the property is classed as high quality soils. This undermines the intent of the use of minimum average lot which on its face would allow the creation of lots for succession or retirement purposes.

For example a 100ha property under a minimum average lot requirement of 20ha could potentially create 4 lots of 1ha and have a balance of 96ha. This can allow the release of capital for succession planning or allow development of the 96ha balance by a capital injection and therefore increase the productive capacity of the balance. However the consideration of policy 11a would not make this possible if the property were high class soils.

Federated Farmers therefore considers that 11a should be amended by substituting the word shall for should to read:

Subdivision in the Rural Area ~~shall~~ should not reduce the availability of high class soils to be used for primary productive purposes except where land is retired for the restoration or enhancement, and or protection of indigenous biodiversity.

or amendments that will give effect to our submission.

4.4. Boundary Adjustments 38.4.2.1(a)

Federated Farmers made a submission on the boundary adjustment provisions seeking that the 5% limit change in in lot size for a controlled activity be deleted and amended so that no lot can be smaller than the minimum lot size of the underlying zone. The basis for this submission that boundary adjustments are a mechanism that is used in the rural zone when amalgamating all or part of a neighbouring property and also used for multiple title farms that wish to subdivide off an existing dwelling that is surplus to requirements or as a succession planning tool. A boundary adjustment does not create any more titles and therefore has less than minor adverse effects as the landowner will not be able to do any more development than that was already allowed on the existing titles prior to the boundary adjustment but will promote more efficient use of the resource.

The s42A report notes that boundary adjustments are the least onerous subdivision activity that the RMA allows for. The 42A report recommends that the 5% threshold is amended to 10% having taken guidance for the Hamilton City Plan and Auckland Unitary Plan. Our concern is that relying on the Hamilton City and Auckland Unitary Plans for guidance is that these Districts are primarily concerned with urban areas. We accept that a 10% threshold is probably appropriate in an urban situation. However for the rural area such a threshold is unreasonable for the reasons given above.

Federated Farmers considers that for the Rural Area the approach taken by the neighbouring Hauraki District Council which is predominantly rural should be taken for the Rural Area (see attachment). The critical components of the Hauraki District provisions are there should be the same or less lots created and of most import in this instance is that no allotment shall be reduced below the minimum area for the allotment in the applicable zone.

As no new lots are being created Federated Farmers submits a similar provision should be used in the Rural Area of the Thames Coromandel District.

Thank you for this opportunity to present our submission to the Hearing Panel.



(a) Size and Shape of the Lot

- (i) Refer to Section 9.5 – *Controlled Activity Assessment Matters*
- (ii) Whether *conditions* attaching to any resource consent or *designation* relevant to the land being subdivided can be met.

9.3.3 BOUNDARY ADJUSTMENTS AND RELOCATIONS

(1) In all zones, *subdivision* by means of boundary adjustment or relocation between two or more adjoining and existing *certificates of title* shall be a *Controlled Activity*, subject to compliance with the following:

- (a) The number of *certificates of title* involved in the *subdivision* will be the same or less after the *subdivision* has been undertaken; and
- (b) No *allotment* shall be reduced in size to less than the minimum area for an *allotment* in the applicable zone (refer to Section 9.4), except as provided for in (c) below;
- (c) In the case of an existing *dwelling* capable of being used for *residential purposes* at the time of the *subdivision* in the Rural, Coastal and Karangahake Gorge Zones where the *allotment(s)* containing the existing *habitable dwelling* shall be as follows:
 - (i) Minimum Lot Area - 2,500m²
 - (ii) Maximum Lot Area - 5,000m².
 - (iii) The existing *dwelling lot* shall contain within the boundaries of the *lot* the effluent disposal system for the existing *dwelling*.
 - (iv) The existing *dwelling lot* shall not be liable to flooding, erosion, landslip or instability. The *Council* may require from the applicant an engineering report on the stability of the land, to be prepared by a Registered Engineer experienced and practising in soil mechanics and the stability of soils to confirm compliance with this standard.
 - (v) The existing *dwelling lot* shall have a *frontage* to a public road of 20 metres minimum.
- (d) The area and dimensions of any existing, non complying *allotments* can still be less than the required minimum area and dimensions for *allotments* in the applicable zone (refer to Section 9.4) after the boundary adjustment or relocation, but cannot be reduced to less than what they were prior to the *subdivision*.

(2) CONTROLLED ACTIVITY MATTERS

Conditions may be imposed in relation to the matters over which *Council* has reserved control as specified below:

(a) Size, Shape and Dimension of the Lots

- (i) Refer to Section 9.5 – *Controlled Activity Assessment Matters*,

