

SUBMISSION

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To: Kaipara District Council Hearing Committee
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NORTHLAND 0340

Submission on: **Variation 1 to the Kaipara District Plan**

Submission by: Federated Farmers of New Zealand
Northland Province

Date: 25 November 2011

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The Northland Province of Federated Farmers appreciates this opportunity to present our submission on Variation 1 to the Kaipara District Plan to the Hearing Panel on 29 November 2011. We acknowledge any submissions made by individual members of Federated Farmers.

NOTES ON STRUCTURE OF HEARING EVIDENCE

- Federated Farmers was allocated the reference number **453** for our submission and **FS606** for our Further Submission.
- We have numbered our submission points to be consistent with numbering in the Summary of Submissions and the Section 42a Report, despite the slight discrepancy with the numbering in our original submission.
- Numbering of provisions in Variation 1 remains the numbering of the notified version.
- The Section 42a Report does not often discuss individual submissions and reasons for its recommendations to accept or reject. Therefore Federated Farmers has been limited in its ability to respond to the Report.

LANDSCAPE PROTECTION IN THE KAIPARA DISTRICT

Federated Farmers submits that the level of landscape protection in the Kaipara District is excessive and unnecessary. Landscape protection is intended to occur through the following mechanisms in the District Plan:

- Outstanding Landscape Areas;
- Visual Amenity Landscapes;
- Northern Wairoa River Overlay;
- West Coast Overlay;
- East Coast Overlay;
- Harbours (Kaipara and Mangawhai) Overlay;
- Kai Iwi Lakes Overlay;
- Valued Natural Environments of Mangawahi Overlay; and
- Zones.

Federated Farmers submits that only Outstanding Natural Features and Landscapes are needed to recognise and provide for Section 6(b) of the RMA, and zoning provisions to have particular regard to Section 7(c) of the RMA. All Overlays and Visual Amenity Areas are unnecessary and will negatively impact on people and communities ability to provide for their well being, while not conclusively contributing to the maintenance or enhancement of amenity.

The Kaipara District is unlikely to face a risk to degrading amenity that justifies this level of amenity protection. The District consists mostly of rural land uses and land in native vegetation, and is not at risk of a mass change to industrial or manufacturing land uses with lower amenity values. The Northland Region has a total of 9,569ha of registered, approved and formalised QEII Covenants as of 30 June 2011, and there are many more hectares of land that private land owners voluntarily protect without formal acknowledgement. The Department of Conservation administers an additional 68,000 hectares of land in the region, fragmented into more than 500 discrete units. Amenity in the Kaipara District is not at risk of degrading.

Additional provisions over landscapes for amenity purposes are unnecessary and could have a very real affect on the economic and social well being of the people and communities of the District.

MAPPING OF LANDSCAPES

Mapping of identified landscapes in the Kaipara District Plan is exceptionally confusing for readers, with inconsistent terminology and the inconsistent method of mapping.

While the Section 42a Report version of Appendix 18A refers to “Visual Amenity Landscapes” the corresponding mapping in Appendix G has been titled “Environmental Benefit/Valued Landscapes.” It is uncertain to the reader whether the Landscapes listed in Appendix 18A are the same as those shown on Appendix G maps due to this inconsistent terminology.

Adding to the confusion is the fact that Outstanding Landscapes have been mapped in the Series 1 maps as an additional layer along with zones and overlays. Land owners may be unsure of where the Outstanding Landscape boundaries are in relation to their property boundaries, as in some places the various layers obscure cadastral lines. Visual Amenity Landscapes have a completely different mapping system by being shown alone in a map in the Appendix.

Mapping in Series 1 maps only shows Outstanding Landscape Areas in a green outline. Map Series 2 also shows Outstanding Landscape Areas but this time with an orange outline, and Outstanding Natural Features in red outline. Different colour codes for OLAs and different series of maps make it hard for readers to work out what is going on.

For reader clarity Federated Farmers submits that both Outstanding Natural Features and Landscapes and be mapped together in the same Map Series, that the legend is consistent, and terminology is also consistent with the Variation 1 text in the Plan.

Mapping at a scale of 1:400,000 means that it is very difficult for land owners to identify their property based on cadastral boundaries and determine if they have been mapped as an ONFL or Visual Amenity Landscape. If only part of their property has been mapped it will be even more difficult to establish where the boundary for the identified landscape is located and subsequently where the rules apply. This is vital information for land owners as it can mean the difference between a permitted activity or requiring a resource consent.

Federated Farmers supports the smaller-scale maps prepared for the Land Owner Consultation Report by Littoralis showing notations overlying aerial photos, as these are the type of resources that land owners need to clearly see what parts of their property are affected. However future land owners will need to rely on clear and concise mapping in the District Plan itself.

Relief Sought:

- That terminology is consistent between text and maps, and
- That Outstanding Natural Features and Landscapes are mapped together in a single map series in a clear and consistent manner, and
- Smaller scale maps are provided in the Plan for future land owners to determine exactly where boundaries are in relation to their properties.

Identification of Outstanding Landscapes.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/2 be rejected, and discusses the intent of the additional word 'natural' to Outstanding Landscapes will be addressed by the term Outstanding Natural Features.

Federated Farmers submits that mapping of the identified landscapes needs to be clarified and consistent terminology and methods are applied throughout. Mapping in Series 1 maps only shows Outstanding Landscape Areas, and does not show Outstanding Natural Features. For reader clarity Federated Farmers submits that both landscapes and features be mapped, and that the legend refers to "*Outstanding Natural Features and Landscapes*" to remain consistent with the text of Variation 1.

Federated Farmers considers that the terminology of Variation 1 needs to retain consistency with its guiding documents of the RMA and the Regional Policy Statement for Northland. Section 6(b) of the RMA discusses *Outstanding Natural Features and Landscapes*, and the October 2011 Draft RPS uses the term *outstanding natural features and landscapes* in Section 3.15.

Federated Farmers submits that landscapes need to be demonstrably natural and outstanding in order to be classified and consequently protected from inappropriate subdivision, use and development. Farm land should not be classified as an Outstanding Natural Landscape because it has human influence and land use patterns that mean it is not "natural." The Council runs the risk of not meeting its sustainable management obligations, in that restrictive provisions over production land for the purpose of protecting amenity will mean that people and communities are unable to provide for their economic, social and cultural well-being.

The methods for identifying, assessing and classifying landscape types at a territorial level are well defined in case law ¹. During an assessment of the district's landscapes the Federation encourages the use of existing methods in order to provide certainty and clarity. The methods used need to be clearly communicated to the reader in the text of the Variation to inspire confidence in the objectivity and robustness of the methods.

Federated Farmers commends the Council for issuing invitations and maps for land owners to meet and confirm the spatial extent of the OLA notation affecting their properties, and the subsequent consultation with the 88 land owners who came forward. However Federated Farmers is concerned about the number of land owners who were unable to take up the invitation, as the Schedule 1 process can be time-consuming or intimidating for many people. We urge the Council to continue further consultation. Consultation with land owners is crucial for the protection of landscapes and natural features on private land, because without landowner acknowledgement and "buy in" on-going, positive management is unlikely to occur.

¹ *Wakatipu Environmental Soc Inc v Queenstown Lakes DC* [2000] NZRMA 59

Pigeon Bay Aquaculture Ltd v Canterbury RC [1999] NZRMA 209 (EnvC)

Federated Farmers considers that it is vital that only landscapes with true outstanding qualities and naturalness are identified, so that land used for primary production and normal farming activities do not become unreasonably captured by the provisions.

Relief Sought:

- That only natural features and natural landscapes that have demonstrable outstanding and natural qualities are identified and protected.
- That mapping of outstanding natural features and landscapes is clear and concise.
- That robust consultation with affected land owners is carried out.
- That correct RMA terminology is used through out the Plan, and that the term *Outstanding Landscape Areas* is replaced with *Outstanding Natural Features and Landscapes*.

453/3 Provision in the proposed Variation:

Visual Amenity Landscapes

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/3 be rejected, for the reason that VALs are considered the most appropriate way to achieve the purpose of the RMA. Appendix G maps are also recommended to be entitled “Environmental Benefit/Valued Landscapes”

Federated Farmers opposes this reasoning and submits that there is no mandate for Visual Amenity Areas in the RMA in Section 6 or Section 7, nor in the Regional Policy Statement for Northland.

Visual Amenity Landscapes are unnecessary to have regard to RMA Section 7(c) and are certainly not a matter of national importance as per RMA Section 6, and should be deleted. Federated Farmers considers that the rural zoning, subdivision and development rules are in place to help ensure that the rural landscape remains rural in character. Therefore amenity values are already being maintained and enhanced by the rural zone provisions. Subsequently rules should be consistent and apply throughout the entire rural zone; there is no need for separate Visual Amenity Landscapes which elevate such landscapes to a status that does not exist in the RMA.

Federated Farmers submits that the Operative Regional Policy Statement for Northland also does not direct the Council to identify and subsequently protect Visual Amenity Landscapes, VALs are not included in Objectives 19.3 which is intended for Outstanding Natural Features and Landscapes only:

19.3 Objectives

1. *The identification of outstanding natural features and outstanding landscapes and their protection of from inappropriate subdivision, use and development.*
2. *To recognise, in the identification and protection of outstanding natural features and outstanding landscapes, that their values include intrinsic values of ecosystems, ecological, heritage, cultural, spiritual, and amenity aspects.*
3. *Any adverse effects of human activities on natural and physical resources are avoided, remedied or mitigated so that the qualities and values of any outstanding natural features and outstanding landscapes are maintained.*

Nor is there direction regarding Visual Amenity Landscapes in Chapter 8 of the draft Regional Policy Statement for Northland released in October 2011. Draft Objectives in Section 3.15 are concerned with high natural character, outstanding natural features and landscapes, historic heritage and significant indigenous ecosystems:

3.15 Protecting high value natural and physical resources

- a) *High and outstanding natural character of the coastal environment and margins of freshwater bodies;*
- b) *Outstanding natural features and landscapes;*
- c) *Historic heritage (including areas, sites, structures of cultural significance) that contribute to Northlands distinctive character and sense of identity;*
- d) *Significant indigenous ecosystems and sites of biological importance.*

Federated Farmers opposes the Visual Amenity Landscapes and subsequent provisions relating to these landscapes, and submits that they be deleted.

Relief Sought:

- That Visual Amenity Landscapes are deleted from the Planning Maps, and
- That any provisions pertaining to Visual Amenity Landscapes are deleted.

453/4 Provision in the proposed Variation:

Issue 18.5.1

Inappropriate subdivision, use and development has the potential to threaten the values of Outstanding Landscape Areas and Visual Amenity Landscapes.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/4 be accepted in part, and deletes the reference to Visual Amenity Landscapes in this Issue.

Federated Farmers supports the deletion of VALs from this issue, as they are not a matter of national importance like ONFLs are under Section 6 of the RMA.

Federated Farmers submits that this Issue needs to incorporate the enabling aspect of the RMA. Protection of landscapes needs to be balanced with people and communities ability to provide for their economic, social and cultural well beings; otherwise sustainable management is not achieved.

Relief Sought:

- That Visual Amenity Landscapes are deleted from Variation 1; and
- That Issue 18.5.1 is amended to recognise that a balance between protection of landscapes and enabling intent of the RMA is required:

Recognising that inappropriate subdivision, use and development has the potential to threaten the values of Outstanding Landscape Areas and Visual Amenity Landscapes, while enabling people and communities to provide for their economic, social and cultural well beings. Or words to this effect.

453/5 Provision in the proposed Variation:

Issue 18.5.2

The need to identify and protect Outstanding Landscape Areas and maintain and enhance Visual Amenity Landscapes whilst also providing for social and economic well-being.

Summary of reasons for this submission:

The Section 42a Report recommended that submission 453/5 be accepted, and deletes the reference to VALs from the issue to read:

Achieving a balance between the ~~The need to identify and protect Outstanding Natural Features and Outstanding Landscape Areas from inappropriate subdivision, use and development and maintain and enhance Visual Amenity Landscapes~~ whilst also providing for the social and economic well-being of the District's communities.

Federated Farmers supports the recommendation to remove the reference to VALs and the inclusion of inappropriate subdivision, use and development, as this phrase is consistent with Section 6(b) wording.

As Section 5 of the RMA states that sustainable management is to enable *people and communities* to provide for their well-being, Federated Farmers submits that Issue 18.5.2 should include *people* alongside the *District's communities*.

Relief Sought:

- That Issue 18.5.2 is amended to only refer to Outstanding Landscapes by reading:

Achieving a balance between the ~~The need to identify and protect Outstanding Natural Features and Outstanding Landscape Areas from inappropriate subdivision, use and development and maintain and enhance Visual Amenity Landscapes~~ whilst also providing for the social and economic well-being of the District's people and communities. or words to this effect.

FS606/15 Relief Sought by Submitter:

Submission 498/9 sought to amend the explanation to Issue 18.5.3 to remove the words "or adjacent to".

Summary of reasons for this submission:

Federated Farmers supports submission 498/9 because it is considered that the provision as it stands goes beyond the requirements of the RMA and is not in the best interests of the District as a whole.

The Hearing Report recommends that FS606/15 be rejected, and submission 498/9 be rejected. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 498/9 be allowed.

453/6 Provision in the proposed Variation:

Issue 18.5.4

Visual Amenity Landscapes can be compromised by the effects of subdivision, use and development through vegetation clearance, poor siting and appearance of buildings and structures, driveways, and inappropriate planting.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/6 be rejected, with the reason that the management of VALs will achieve Section 7(c) of the RMA functions, and that the text be amended to read:

Subdivision, use and development has the potential to enhance or degrade the amenity values of Visual Amenity Landscapes depending on how it is undertaken. ~~can be compromised by the effects of subdivision, use and development through vegetation clearance, poor siting and appearance of buildings and structures, driveways, and inappropriate planting.~~

Federated Farmers opposes this recommendation for the reason that Visual Amenity Landscapes are not necessary to meet the obligations of the RMA and could result in restricting people and communities' ability to provide for their well being for a reason that is unnecessary.

There is no direction in the RMA or the RPS to identify "second tier" landscapes that are not classified as outstanding natural landscapes and features as per Section 6(b). While Section 7(c) of the RMA requires councils to have regard to the maintenance and enhancement of amenity values, this is already being achieved through zoning provisions and associated rules for activities and subdivision. The Kaipara District is not under threat of degrading amenity, as most land use is either rural or in native bush.

Relief Sought:

- That Visual Amenity Landscapes are deleted from Variation 1; and
- That Issue 18.5.4 is deleted.

FS606/9 Relief Sought by Submitter:

Submission 452/5 sought to add an Issue for landscapes outside OLAs and VALs.

Summary of reasons for this submission:

Federated Farmers opposes submission 452/5 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/9 be accepted, and submission 452/5 b3 rejected. Federated Farmers supports this recommendation.

Relief Sought:

- That submission 452/5 is disallowed.

453/7 Provision in the proposed Variation:

Objective 18.6.1

To protect Outstanding Landscape Areas from inappropriate subdivision, use and development, including built structures, earthworks and vegetation clearance.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/6 be rejected with the reason that it is not necessary to state that appropriate activities are enabled, because the Objective is focused only on avoiding inappropriate activities. The text is recommended to read:

To protect Outstanding Natural Features and Outstanding Landscape Areas from inappropriate subdivision, use and development, ~~including built structures, earthworks and vegetation clearance~~ in terms of their type, scale, design, intensity and location.

Federated Farmers opposes the recommendation to reject our submission, because this Objective needs to incorporate the enabling aspect of the RMA, and it needs to be specifically mentioned to ensure that it is considered.

Issue 18.5.2 identified the need to balance landscape protection with economic and social well being. This sentiment needs to flow on into Objective 18.6.1 to retain consistency throughout the District Plan. Otherwise subdivision, development and use that is consistent with existing land uses on an ONFL could be unnecessarily restricted. An example is an access track involving both

earthworks and indigenous vegetation clearance, but for the ultimate benefit of the ONFL as it is needed for pest control.

Relief Sought:

- That Objective 18.6.1 is amended to include the enablement of e activities in ONFLs where they are compatible with the landscape values.

453/8 Provision in the proposed Variation:

Objective 18.6.2

To ensure that subdivision, use and development is undertaken in the District in a manner that avoids adverse effects on Outstanding Landscape Areas (and where this is not practicable remedies or mitigates such effects) and avoids, remedies or mitigates adverse effects on Visual Amenity Landscapes.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/8 is rejected for the reason that VALs are needed to have regard to maintaining and enhancing amenity values, and recommends that the text be changed to focus solely on VALs:

To ensure that subdivision, use and development ~~is undertaken in the District in a manner that avoids adverse effects on Outstanding Landscape Areas (and where this is not practicable remedies or mitigates such effects) and avoids, remedies or mitigates adverse effects on~~ maintains and enhances Visual Amenity Landscapes by avoiding, remedying or mitigating adverse visual and amenity effects.

Federated Farmers opposes the recommendation to reject our submission, for the reason that Visual Amenity Landscapes are not necessary to meet the obligations of the RMA and could result in restricting people and communities' ability to provide for their well being for a reason that is unnecessary.

There is no direction in the RMA or the RPS to identify "second tier" landscapes that are not classified as outstanding natural landscapes and features as per Section 6(b). While Section 7(c) of the RMA requires councils to have regard to the maintenance and enhancement of amenity values, this is already being achieved through zoning provisions and associated rules for activities and subdivision. The Kaipara District is not under threat of degrading amenity, as most land use is either rural or in native bush.

Federated Farmers supported Objective 18.6.2 in its presumption that subdivision, use and development will occur in Outstanding Landscape Areas, so long as it is not incompatible. However remedying or mitigation of adverse effects should not be considered lesser methods of addressing adverse effects on ONFLs.

Relief Sought:

- That Visual Amenity Landscapes are deleted from Variation 1; or

- Objective 18.6.2 is amended to provide for the avoidance, remediation or mitigation of adverse effects.

453/9 Provision in the proposed Variation:

Objective 18.6.3

To encourage the active management and voluntary protection of landscapes by private land owners.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/9 be rejected, with the reason that the inclusion of how objectives will be achieved (e.g. rates rebates) will blur the line between objectives and methods.

Federated Farmers submits that by including mention of regulatory incentives and non-regulatory methods retains the purpose of the Objective by providing more information which then leads to specific methods such as rates rebates. The addition of regulatory incentives and non-regulatory methods into the Objective does not turn the Objective into a Method, as it is not specific enough.

Both regulatory incentives and non-regulatory methods have value and contribute to the achievement of an objective. Federated Farmers doesn't want the Council to miss out on all the tools available because they are not included in Objective 18.6.3.

Relief Sought:

- That Objective 18.6.3 is amended to read:

To encourage the active management and voluntary protection of landscapes by private land owners by utilising regulatory incentives and non-regulatory methods. Or words to this effect.

FS606/10 Relief Sought by Submitter:

Submission 452/6 sought to add a new objective to Section 18.6.

Summary of reasons for this submission:

Federated Farmers opposes submission 452/6 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/10 be accepted, and submission 452/6 be rejected. Federated Farmers supports this recommendation.

Relief Sought:

- That submission 452/6 is disallowed.

Policy 18.7.1

To recognise and protect the Outstanding Landscape Areas of the District by:

- a) Identifying and confirming the extent and characteristics of Outstanding Landscape Areas;*
- b) Protecting natural and physical features and natural systems (such as landforms, vegetation and watercourses) that contribute to the character and values of Outstanding Landscape Areas;*
- c) Avoiding inappropriate subdivision, use and development within Outstanding Landscape Areas and, in particular, from the effects of vegetation clearance and land modification, building location, earthworks and accessways, built form and building appearance;*
- d) Encouraging and recognising the wider benefit of sensitive development that protects Outstanding Landscape Areas;*
- e) Carefully managing existing land uses and development within Outstanding Landscape Areas to protect those characteristics that contribute to landscape values;*
- f) Avoiding subdivision, use and development that has the potential to compromise Outstanding Landscape Area values, particularly when viewed from public places, public roads and the coast.*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/10 be accepted in part.

The Section 42a Report notes that a reference in Chapter 18 to the technical report which has details of process and methodology used in the assessment is considered sufficient. Federated Farmers submits that **Article a)** of Policy 18.7.1 should refer to the criteria that have been used to identify Outstanding Landscapes. Different councils use different criteria, so it is important to note criteria in the District Plan for clarity. The introduction of Chapter 18 refers to criteria based on case law developed by *Pigeon Bay Aquaculture Ltd and Ors v Canterbury Regional Council*, so the criteria from this case should be written into Chapter 18. Federated Farmers considers that it is easier for readers to see the criteria in the Plan itself, rather than having to cross-reference to another report which may not be readily available. Knowing the criteria will be beneficial when preparing a resource consent application.

Article b) currently only has half of the direction given by Section 6(b) of the RMA, which says that ONFLs will be protected *from inappropriate subdivision, use and development*. Inclusion of this term will ensure that readers are clear as to what ONFLs will be protected from, and also means that not all subdivision, use and development will be considered a threat to the integrity of ONFLs.

Article c) needs to incorporate remedying and mitigating as options to manage adverse effects of inappropriate subdivision, use and development to retain consistency with Section 5(2)(c) and Section 17 of the RMA. Avoiding all adverse effects may not always be achievable, but allowing for mitigating or remedying will provide resource users with more “tools.”

Article f) is not required, as Article c) already discusses the need to manage inappropriate subdivision, use and development. Being viewed from a public place is not a criteria for ONFLs, and so this should not be a consideration in Policy 18.7.1.

There is no provision that follows on from Objective 18.6.3 which seeks to encourage voluntary actions by private land owners. The Section 42a Report notes that the Council is keen to foster land owner support, and Variation 1 has methods that seek to encourage this.

Voluntary actions can be encouraged through the use of regulatory incentives such as transferable development rights, or through non-regulatory mechanisms. Methods 18.8.2 provide for non-regulatory methods to be used. There needs to be a policy that sits between Objective 18.6.3 and Methods 18.8.2.

Although costing on incentives will be discussed in the LTCCP process, mention of these options in a district plan provides more certainty to resource users that these incentives will occur.

Relief Sought:

- That Policy 18.7.1 is amended to read:

To recognise and protect the Outstanding Landscape Areas of the District by:

- a) *Identifying and confirming the extent and characteristics of Outstanding Landscape Areas using criteria in Appendix (X);*
- b) *Protecting natural and physical features and natural systems (such as landforms, vegetation and watercourses) that contribute to the character and values of Outstanding Landscape Areas while enabling appropriate activities to occur;*
- c) *Avoiding, remedying or mitigating the adverse effects of inappropriate subdivision, use and development within Outstanding Landscape Areas ~~and, in particular, from the effects of vegetation clearance and land modification, building location, earthworks and accessways, built form and building appearance;~~*
- d) *Encouraging and recognising the wider benefit of sensitive development that protects Outstanding Landscape Areas;*
- e) *Carefully managing the adverse effects of existing land uses and development within Outstanding Landscape Areas to protect those characteristics that contribute to landscape values;*
- ~~f) *Avoiding subdivision, use and development that has the potential to compromise Outstanding Landscape Area values, particularly when viewed from public places, public roads and the coast.* Or words to this effect.~~
- f) *(Regulatory and non-regulatory incentives) to encourage voluntary actions to protect or enhance Outstanding Landscape Areas* Or words to this effect.

FS606/16 Relief Sought by Submitter:

Submission 498/10 sought to amend Policy 18.7.1(f) to make it clear that it is only areas within OLAs that are being managed.

Summary of reasons for this submission:

Federated Farmers supports submission 498/10 because it is considered that the provision as it stands goes beyond the requirements of the RMA and is not in the best interests of the District as a whole.

The Hearing Report recommends that FS606/16 be rejected, and submission 498/10 be rejected. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 498/10 be allowed.

453/11 Provision in the proposed Variation:

Policy 18.7.2

To maintain and enhance Visual Amenity Landscapes of the district by:

- Considering and recognising the values of Visual Amenity Landscapes in the assessment of resource consents;*
- Providing for subdivision, use and development that is visually integrated with the landscape, maintains and enhances landscape values and provides for the remediation of adverse effects on amenity landscape values;*
- Avoiding, remedying or mitigating the effects of subdivision, use and development which detracts from the character of Visual Amenity Landscapes including vegetation clearance, building location, earthworks and access ways, built form and building appearance;*
- Encouraging visual and ecological enhancement and innovative design responses to subdivision, use and development such that the landscape values of Visual Amenity Landscapes are maintained and enhanced;*
- Encouraging naturalistic planting patterns to reflect existing patterns in the landscape*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/11 is rejected.

Federated Farmers is aware that there are no rules pertaining to Visual Amenity Landscapes, however we remain opposed to the concept. Normal zoning provisions already have matters of discretion that permit the Council to consider effects on amenity for a resource consent application. For example, Rule 12.10.1 (excavation and fill in the Rural Zone) provides *v) Effects on the locality, particularly character and amenity values of adjoining sites/landuses* as a matter of restricted discretion. Federated Farmers considers that this is sufficient to meet Section 7(c) obligations of the RMA, and that Visual Amenity Landscapes are not required.

Visual Amenity Landscapes are not necessary to meet the obligations of the RMA and could result in restricting people and communities' ability to provide for their well being for a reason that is unnecessary. There is no direction in the RMA or the RPS to identify "second tier" landscapes that are not classified as outstanding natural landscapes and features as per Section 6(b). While Section 7(c) of the RMA requires councils to have regard to the maintenance and enhancement of amenity values, this is already being achieved through zoning provisions and associated rules for activities and subdivision. The Kaipara District is not under threat of degrading amenity, as most land use is either rural or in native bush.

Relief Sought:

- That Visual Amenity Landscapes are deleted from Variation 1
- That Policy 18.7.2 is deleted.

453/12 Provision in the proposed Variation:

Policy 18.7.5

To encourage the rehabilitation of landscapes and recognise the benefits of this protection for the wider community.

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/12 is accepted in part, and recommends that the Policy be changed in response to submissions to read:

To encourage the voluntary rehabilitation—protection and enhancement of Outstanding Natural Features, Outstanding Landscape Areas and Visual Amenity landscapes and recognise the benefits of ~~this protection~~ afforded to ~~for~~ the wider community.

Federated Farmers supports Policy 18.7.5 that aims to encourage voluntary actions, and that these will be recognised. Many land owners financially and personally invest in their land, and this is for the wider public good. Many land owners also do not want to enter into a formal covenant, however their voluntary management should still be valued by the District.

Federated Farmers is supportive of the deletion of the word *rehabilitation* as this implied that the landscape had been damaged or neglected, which would not be the case with the careful stewardship of many land owners.

Replacement of *rehabilitation* with *maintenance or enhancement* will provide a better picture of what is wanted.

Relief Sought:

- That Policy 18.7.5 is amended to read:

To encourage ~~the rehabilitation~~ the maintenance or enhancement of landscapes and recognise the benefits of this protection for the wider community. Or words to this effect.

FS606/4 Relief Sought by Submitter:

Submission 373/23 sought to include an additional policy in 18.7 to allow assessment of the visibility of OLAs when viewed from public places.

Summary of reasons for this submission:

Federated Farmers opposes submission 373/23 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/4 be rejected, and submission 373/23 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/15 be disallowed.

FS606/5 Relief Sought by Submitter:

Submission 373/24 sought to include an additional policy in 18.7 to allow assessment of the visibility of OLAs when viewed from public places

Summary of reasons for this submission:

Federated Farmers opposes submission 373/24 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/5 be rejected, and submission 373/24 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/24 be disallowed.

FS606/6 Relief Sought by Submitter:

Submission 373/25 sought to include an additional policy in 18.7 to allow assessment of the visibility of OLAs when viewed from public places.

Summary of reasons for this submission:

Federated Farmers opposes submission 373/25 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/6 be rejected, and that submission 373/25 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/25 be disallowed.

FS606/7 Relief Sought by Submitter:

Submission 373/26 sought to include an additional policy in 18.7 to allow assessment of the visibility of OLAs when viewed from public places.

Summary of reasons for this submission:

Federated Farmers opposes submission 373/26 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/7 be rejected, and that submission 373/26 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/26 be disallowed.

FS606/8 Relief Sought by Submitter:

Submission 373/27 sought to include an additional policy in 18.7 to allow assessment of the visibility of OLAs when viewed from public places.

Summary of reasons for this submission:

Federated Farmers opposes submission 373/27 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/8 be rejected, and that submission 373/27 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/27 be disallowed.

FS606/12 Relief Sought by Submitter:

Submission 452/8 sought to add a new policy to 18.7

Summary of reasons for this submission:

Federated Farmers opposes submission 452/8 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/12 be accepted, and submission 452/8 be rejected. Federated Farmers supports this recommendation.

Relief Sought:

- That submission 452/8 be disallowed.

453/12 Provision in the proposed Variation:

Method 18.8.1 District Plan Methods

- *The Outstanding Landscape Areas are identified in Series 1 - District Plan Maps and a schedule outlining the values associated with them is included in Appendix 18B. New subdivision, use and development rules are included in the Plan outlining how Outstanding Landscape Areas will be protected.*
- *The Visual Amenity Landscapes are indicated in Appendix G and a schedule outlining the values associated with them is included in Appendix 18B. The values of the Visual Amenity Landscapes are a matter for assessment on resource consents within or adjacent to these features to provide guidance on how these Landscapes will be maintained and enhanced.*
- *Investigating additional development rights if areas of Outstanding Landscape Areas on private property are permanently protected or degraded landscapes are enhanced and protected.*
- *Investigating the development of Transferrable Development Rights to provide additional development rights where the subject land is not able to absorb further development.*
- *Restricting the density of subdivision within Outstanding Landscape Areas.*
- *Additional assessment criteria (in the Zone Chapters) for subdivision in Outstanding Landscape Areas and Visual Amenity Landscapes, for example managing the shape of lots and building locations within new lots to encourage land use patterns that avoid or minimise impacts on Outstanding Landscape Areas and Visual Amenity Landscapes.*
- *Additional assessment criteria (in the Zone Chapters) for selected activities (subdivision, excavation and fill, indigenous vegetation clearance). If a resource consent is required for that activity, the location of identified amenity landscapes will be a matter Council will consider in assessing the consent.*

- *Additional assessment of cultural landscapes in areas of significance to Maori.*
- *Consideration of Outstanding Landscape Areas and Visual Amenity Landscapes in the definition of and structure planning for identified Growth Areas.*
- *Investigating the use of ground truthing to further define the values associated with, and extent of, Outstanding Landscape Areas.*
- *Investigating the incorporation of sites included in the Geopreservation Inventory in Outstanding Landscape Areas.*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/12 is accepted in part, and individually numbers each of the points in Method 18.8.1 with recommendations for text amendments.

Federated Farmers supports a range of appropriate methods that enable policies to be achieved.

The Section 42a Report recommends that text be amended for the first point to read:

18.7.1.1 Outstanding Landscape Areas are identified in Map Series 1 and Outstanding Natural Features are identified in Map Series 2 and ~~The Outstanding Landscape Areas are identified in Series 1 – District Plan Maps and a description schedule outlining the values associated with them of individual values and characteristics is included provided in Appendix 18BA.~~ New subdivision, use and development rules are included in the Plan to provide for the protection of ~~outlining how these outstanding features and landscapes Outstanding Landscape Areas will be protected.~~

The Method outlines that Outstanding Landscape Areas will be shown in Series 1 Maps, but does not reveal how the landscapes were identified. Section 18.1 Introduction notes that criteria is based on case law developed by *Pigeon Bay Aquaculture Ltd and Ors v Canterbury Regional Council*, but Federated Farmers submits that the criteria need to be explicitly included in the Plan. A description of the values and characteristics of the identified landscapes will be useful for resource users when seeking to avoid, remedy or mitigate the effects of subdivision, use and development in these areas. Criteria are still needed so that readers are well aware that identification is not arbitrary.

The Section 42a Report recommends that text be amended for the second point to read:

18.7.1.2 ~~The Visual Amenity Landscapes are indicated in Appendix G and a description schedule outlining the values associated with them of each landscapes is included provided in Appendix 18BA. Consideration will be given to the effects on the values of the Visual Amenity Landscapes are as a matter for assessment on for resource consents- applications within or adjacent to these Visual Amenity Landscapes features to provide The values provide guidance on how these Landscapes will should be maintained and enhanced.~~

Methods relating to Visual Amenity Landscapes should be deleted. Visual Amenity Landscapes are not necessary to meet the obligations of the RMA and could result in restricting people and communities ability to provide for their well being for an unnecessary reason. There is no direction in the RMA or the RPS to identify “second tier” landscapes that are not classified as outstanding natural landscapes and features as per Section 6(b). While Section 7(c) of the RMA requires councils to have regard to the maintenance and enhancement of amenity values, this is already being

achieved through zoning provisions and associated rules for activities and subdivision. The Kaipara District is not under threat of degrading amenity, as most land use is either rural or in native bush.

The Section 42a Report recommends the deletion of the fifth point:

~~*Restricting the density of subdivision within Outstanding Landscape Areas.*~~

Federated Farmers supports the deletion of this Method. This point will already be covered by the additional point that Federated Farmers suggests to deal with rules separately from identification of Outstanding Landscape Areas.

The Section 42a Report recommends the deletion of the eighth point:

~~*Additional assessment of cultural landscapes in areas of significance to Maori.*~~

The Section 42a Report discusses that the reason for the rejection of submission 453/13 is because Cultural landscapes can sit within an outstanding or amenity landscape, however it then recommends the deletion of this Method. Federated Farmers supports the deletion of this Method, because cultural landscapes are not included in Variation 1, so it is unclear why there is a method that says additional assessment of cultural landscapes will occur.

Relief Sought:

- That Method 18.8.1 is amended to read:
 - ~~*The Outstanding Landscape Areas are identified using criteria in Appendix (X) and shown in Series 1 - District Plan Maps and a schedule outlining the values associated with them is included in Appendix 18B. New subdivision, use and development rules are included in the Plan outlining how Outstanding Landscape Areas will be protected.*~~
 - ~~*Provisions in the district plan will manage adverse effects on identified values of an Outstanding Landscape Area arising from excavation and fill, indigenous vegetation clearance, building and subdivision.*~~
 - ~~*The Visual Amenity Landscapes are indicated in Appendix G and a schedule outlining the values associated with them is included in Appendix 18B. The values of the Visual Amenity Landscapes are a matter for assessment on resource consents within or adjacent to these features to provide guidance on how these Landscapes will be maintained and enhanced.*~~
 - ~~*Investigating additional development rights if areas of Outstanding Landscape Areas on private property are permanently protected or degraded landscapes are enhanced and protected.*~~
 - ~~*Investigating the development of Transferrable Development Rights to provide additional development rights where the subject land is not able to absorb further development.*~~
 - ~~*Restricting the density of subdivision within Outstanding Landscape Areas.*~~
 - ~~*Additional assessment criteria (in the Zone Chapters) for subdivision in Outstanding Landscape Areas, and Visual Amenity Landscapes, for example managing the shape of lots*~~

~~and building locations within new lots to encourage land use patterns that avoid or minimise impacts on Outstanding Landscape Areas and Visual Amenity Landscapes.~~

- ~~Additional assessment criteria (in the Zone Chapters) for selected activities (subdivision, excavation and fill, indigenous vegetation clearance). If a resource consent is required for that activity, the location of identified amenity landscapes~~ Outstanding Natural Features and Landscapes will be a matter Council will consider in assessing the consent.

~~—Additional assessment of cultural landscapes in areas of significance to Maori.~~

- ~~Consideration of Outstanding Landscape Areas and Visual Amenity Landscapes~~ in the definition of and structure planning for identified Growth Areas.
- Investigating the use of ground truthing to further define the values associated with, and extent of, Outstanding Landscape Areas.
- Investigating the incorporation of sites included in the Geopreservation Inventory in Outstanding Landscape Areas. Or words to this effect.

453/14 Provision in the proposed Variation:

Method 18.8.2 Other Methods

The Council will provide the following methods to assist land owners:-

- Financial support - Council will investigate opportunities for discounts for resource consent fees and specific detailed assessment of landscape areas associated with the protection of landscapes;
- Landscape Assistance Fund – Council will establish a fund to assist in the costs of protective fencing, pest control and costs associated with establishing covenants; and
- Design guidelines – Council will investigate providing guidelines on how to protect landscapes and their values (e.g. information on preferred building locations and advice on revegetation);
- Maintain a register of professional consultants to provide advice on landscapes and their values;

The Council will provide the following methods to assist the community:-

- Community liaison – Council will assist in the establishment of community care groups and will provide technical advice and will assist them in gaining funding for community projects; and
- Council will provide support for Landcare and Coastcare Programmes.
- Active involvement with the Northland Regional Council, Far North District Council, Rodney District Council Department of Conservation and Whangarei District Council to develop a consistent approach to the protection and management of Outstanding Landscape Areas and Visual Amenity Landscapes within the Northland Region – in particular as a statutory consultee in the development of the Northland Regional Policy Statement Review.
- Develop monitoring indicators for Outstanding Landscape Areas and Visual Amenity Landscapes

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/14 be rejected, and then discusses that rates relief is already possible. It appears that the Section 42a Report has not fully considered our entire submission point and the support we offer for the Methods.

Federated Farmers supports a range of appropriate methods that enable policies to be achieved. Non-regulatory methods are a powerful tool that encourage voluntary actions and behaviour change, and also foster good working relationships between resource users of a district, and their territorial authority.

Federated Farmers supports financial support, landscape assistance funds, and design guidelines as methods to protect Outstanding Landscape Areas.

Methods relating to Visual Amenity Landscapes should be deleted. Visual Amenity Landscapes are not necessary to meet the obligations of the RMA and could result in restricting people and communities' ability to provide for their well being for an unnecessary reason. There is no direction in the RMA or the RPS to identify "second tier" landscapes that are not classified as outstanding natural landscapes and features as per Section 6(b). While Section 7(c) of the RMA requires councils to have regard to the maintenance and enhancement of amenity values, this is already being achieved through zoning provisions and associated rules for activities and subdivision. The Kaipara District is not under threat of degrading amenity, as most land use is either rural or in native bush.

Council may want to consider other non-regulatory methods that provide incentives and recognise work already done.

- Rates remissions or rebates for land voluntarily protected;
- Reimbursements or discounts for products and fencing materials;
- Providing native seedlings;
- Pest and weed control assistance;
- Contestable fund for enhancement projects.

Education is another method that could be valuable. Education around why these landscapes are special will contribute to positive attitudes towards them.

Relief Sought:

- That references to Visual Amenity Landscapes in Method 18.8.2 are deleted;
- That the range of non-regulatory methods is retained, and that Education is included.

FS606/11 Relief Sought by Submitter:

Submission 452/7 sought to include additional wording to section 18.9: Outcomes..

Summary of reasons for this submission:

Federated Farmers opposes submission 452/7 for the reason that it is considered that the proposals made by the submitter go beyond the requirements of the RMA and are not in the best interests of the District as a whole.

The Section 42a Report recommends that FS606/11 be accepted, and submission 452/7 be rejected. Federated Farmers supports this recommendation.

Relief Sought:

- That submission 452/7 is disallowed.

453/15 Provision in the proposed Variation:

Activity Status: *Activities within an Outstanding Landscape Area will be assessed as a Discretionary Activity*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/15 be rejected, with the reason that the discretionary status is considered necessary for activities given their varying nature and location in the District, which may require consideration of objectives and policies of other chapters of the Plan.

Federated Farmers opposes this recommendation. The provisions in Variation 1 are for the purpose of protecting ONFLs from inappropriate subdivision, use and development, in order to protect the values that made the landscape or feature outstanding and natural. Discretion can be restricted to the specific qualities that made the landscape identifiable as outstanding. The worksheets discussed in the November 2010 *Landscape Technical Report* prepared by Littoralis Landscape Architecture with Beca provide some factors that landscapes are assessed by:

- experiential values,
- heritage values, and
- physical landscape elements.

Restricting discretion to these matters means that resource users will know what factors their application will be assessed on, so they can endeavour to avoid, remedy or mitigate adverse effects. Restricted discretionary status will mean that the Council retains its ability to assess an application and approve or deny consent, but consent processors and resource users will have more certainty on what matters will be assessed.

Relief Sought:

- That the status of activities in Outstanding Landscape Areas that do not meet permitted standards is amended to restricted discretionary.

453/16 Provision in the proposed Variation:

Rule 12.10.1 (4) Excavation and Fill in Outstanding Landscape Areas

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/16 be rejected, for the reason that Council would not meet its statutory obligations if activities such as farming were exempted.

Federated Farmers opposes this recommendation for two reasons:

- Council may not achieve sustainable management obligations as per Section 5 of the RMA regarding enabling people and communities to provide for their economic social and cultural well being.
- Section 6(b) of the RMA directs Council to recognise and provide as a matter of national importance *“The protection go outstanding natural features and landscapes from inappropriate subdivision, use and development.”* If farming is a land use that is established and existing over an ONFL, then it cannot be considered *inappropriate* and must be provided for.

Federated Farmers submits that either ONFL classification be fully removed from primary production land, or that excavation and fill associated with farming is exempt from this rule.

Forestry and Network Utilities earthworks

Federated Farmers submits that the scale or effects arising from excavation and fill associated with farming will be similar or lesser than from forestry and network utilities, which are permitted. A track used for forestry will be identical to a track used for farming, yet one is permitted with no limits, and the other is severely restricted.

If the Council is prepared to accept that forestry and network utilities are essential for the well being of the district, and that they need to be exempt from excavation and fill limits, then it needs to extend the same acceptance to farming.

Farming Earthworks

Limiting the amount of earthworks that can be carried out on a rural property to a volume of 150m³ and 150m² area of disturbance per 12 months will severely impact on farmers’ ability to carry out farming earthworks on their property, and will subsequently impair the ability of people and communities to provide for their economic well being.

For example, an average 300 cow farm would require an anaerobic effluent pond that is 1,400m³ (4m x 21m x 35m) for 90 day storage. The district council's rule would be a direct impediment for farmers to meet effluent storage and treatment requirements.

Farmers usually intend to carry out all earthworks on their property in one go while they have hired machinery, rather than in incremental bursts every year. The earthworks limits would mean that other activities would not be able to occur such as maintenance of tracks for vehicle safety, maintenance of livestock races for animal foot health, clean filling around troughs and gates to prevent mud and pugging, formation of underpasses and bridges, and landslide clean-up to name a few. These are all activities that are essential to running a farm and to contribute to the well-being of their families and communities, they are not activities that farmers undertake for no good reason.

The limit of 2m vertical cut/fill over a continuous 50m length is also very restrictive and needs to be revised to 4m. 2m only allows for a cut face of 1m and a fill face of 1m, which would be impractical when tracking along steep topography.

Other Council examples

Waikato District Council has a volume limit of 1000m³ in Landscape Policy Areas, and exempts earthworks for the construction and/or maintenance of farm tracks, fences and farm drains from the volume limit in Rule 25.25.1 (which was an outcome of *Federated Farmers v Waikato District Council* ENV-2007-AKL-000051.)

Kaipara District Council should also exclude farming earthworks to ensure that the economic well being of individuals and the community is not adversely affected by this rule if farm land is identified as an Outstanding Landscape.

Definition of "site"

"Site" is defined as being a Certificate of Title with one or contiguous allotments, so this rule as currently written has the potential to limit whole farms to only 150m³ even if only a portion of the property is mapped as an Outstanding Landscape. The rule needs to narrow down the definition of the location to where the earthworks are occurring to avoid getting captured by the definition of "site."

Stabilisation impractical

Stabilisation of cut/fill areas using hydroseed, or mulch, and requiring revegetation may be impractical, as it could require track or road surfaces to be done.

Relief Sought:

- That farm land is not identified as an Outstanding Landscape, or that earthworks associated with primary production are excluded from Rule 12.10.1(4), and
- Rule 12.10.1(4) does not apply to areas of a property that are outside the ONFL as captured by the definition of "Site"
- Stabilisation using hydroseed is limited only to where practical, so that track or road surfaces do not require hydroseed.

FS606/1 Relief Sought by Submitter:

Submission 373/15 sought a new performance standard for a setback to a bank of any waterbody in OLA earthworks rules.

Summary of reasons for this submission:

Federated Farmers opposes submission 373/15 because it is considered that the proposals made by the submitter are not in the best interests of the District as a whole.

The Hearing Report recommends that FS606/1 be rejected, and submission 373/15 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/15 be disallowed.

FS606/14 Relief Sought by Submitter:

Submission 498/4 sought to include Rules to protect outstanding natural features, focusing on earthworks and land disturbance activities

Summary of reasons for this submission:

Federated Farmers opposes submission 498/4 because it is considered that the proposals made by the submitter go beyond the scope of the Variation as notified.

The Hearing Report recommends that FS606/14 be rejected, and submission 498/4 be accepted. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 498/4 be disallowed.

453/17 Provision in the proposed Variation:

Rule 12.10.2(4) Indigenous Vegetation Clearance in Outstanding Landscape Areas

The destruction or clearance of indigenous vegetation within an Outstanding Landscape Area, is a Permitted Activity provided that:

- a) *It is not part of a continuous area of predominantly indigenous vegetation greater than 3m in height and greater than 500m² in area and is not located within 100m of the coastal marine area.*

Unless, with respect to a) above one of the following exceptions are met:

- i) *The removal is in accordance with an existing use right; or*
ii) *The total clearance within a site is no more than 500m² where the clearance is for the express purpose of providing a house site and / or access to a house site, or is to provide access to existing farming or forestry activities; or*

- iii) *The removal is of trees that are a danger to human life or existing structures (including network utilities); or*
- iv) *The removal is for the formation and maintenance of walking tracks less than 1.2 metres wide using manual methods that do not require the removal of any indigenous tree over 300mm girth; or*
- v) *The removal is necessary for maintenance of any building, structure, road or track including any telecommunication work or utility service; or*
- vi) *The removal is for the construction of a fire break by a fire authority; or*
- vii) *It is necessary for the purposes of fencing and excluding livestock from an area which is to be protected permanently for ecological and / or soil conservation purposes; or*
- viii) *The vegetation or tree comprises the understorey directly beneath exotic or native plantation forest and the activity is carried out as part of forestry operations; or*
- ix) *It is carried out in accordance with the terms of a Queen Elizabeth II National Trust or other covenant or a sustainable management permit or plan under the Forests Amendment Act.*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/17 be rejected, and does not seem to have any discussion on the Indigenous Vegetation Clearance rule.

The rule is recommended in the Section 42a Report to be amended to read:

The destruction or clearance of indigenous vegetation within an Outstanding Landscape Area, as identified in Map Series 2, is a Permitted Activity provided that:

a) It is not part of a continuous area of predominantly indigenous vegetation, greater than 3m in height, and over 500m² in area, and is not located within 100m of the coastal marine area. Unless, with respect to a) above one of the following exceptions are met:

.....

(6) Outstanding Natural Features

No vegetation clearance shall occur within an Outstanding Natural Feature, as identified on Map Series 2.

This rule seems intended to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, this is a different matter in the RMA and RPS to outstanding natural landscapes and features. Federated Farmers is concerned that this rule will mean that clearance of indigenous vegetation that is not high quality will be restricted for no good reason. An example is manuka growing under plantation forest, or toetoe in pasture, both of these species can reach over 3m tall, but this does not demonstrate that they are integral to the amenity of an ONFL.

Rule 12.10.2(4) assumes that all indigenous vegetation on an ONFL is special and contributes to the ONFL attributes, this may not be true.

Federated Farmers submits that rules for the purpose of protecting significant indigenous vegetation and significant habitats need to be clearly separated from rules for the purpose of protecting ONFLs

from inappropriate subdivision, use and development. In many cases, clearance of indigenous vegetation would be an appropriate activity and would not compromise the values of an ONFL.

Relief Sought:

- That ONFL classification is removed from land used for primary production, or
- That Rule 12.10.2(4) (Indigenous Vegetation Clearance) is deleted as it does not meet the purpose of protecting ONFLs from inappropriate subdivision, use and development.

FS606/2 Relief Sought by Submitter:

Submission 373/16 sought to amend Rules 12.10.2(4), 13.10.2(4), 15A.10.2(4) and 15B.10.2(4).

Summary of reasons for this submission:

Federated Farmers opposes submission 373/16 for the reason that it is considered that the proposals made by the submitter are inappropriate. While some tidying up could improve the usability of the provisions, the changes proposed by the submitter do not promote sustainable management.

The Section 42a Report recommends that FS606/2 be rejected, and submission 373/16 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/16 be disallowed.

FS606/3 Relief Sought by Submitter:

Submission 373/20 sought to amend Rules 12.10.2(4), 13.10.2(4), 15A.10.2(4) and 15B.10.2(4).

Summary of reasons for this submission:

Federated Farmers opposes submission 373/20 for the reason that It is considered that the proposals made by the submitter are inappropriate. While some tidying up could improve the usability of the provisions, the changes proposed by the submitter do not promote sustainable management.

The Section 42a Report recommends that FS606/3 be rejected, and submission 373/20 be accepted in part. Federated Farmers opposes this recommendation.

Relief Sought:

- That submission 373/20 be disallowed.

FS606/13 Relief Sought by Submitter:

Submission 452/10 sought that the Rules relating to vegetation clearance are confusing and need to be amended.

Summary of reasons for this submission:

Federated Farmers opposes submission 452/10 for the reason that It is considered that the proposals made by the submitter are based on the misapprehension that the rules are confusing. While some tidying up could improve the usability of the provisions, the wholesale changes proposed by the submitter do not promote sustainable management.

The Section 42a Report recommends that FS606/13 be accepted, and submission 452/10 be rejected. Federated Farmers supports this recommendation.

Relief Sought:

- That submission 452/10 be disallowed.

453/18 Provision in the proposed Variation:

Rule 12.10.3 Erection and alterations of dwellings and structures within an Outstanding Landscape Area

The Erection and Alteration of Dwellings located in an Outstanding Landscape Area is a permitted activity if:

- It is no more than 8m in height; and*
- Does not exceed 50m² gross floor area; and*
- The exterior finish of the dwelling or structure has a reflectance value of, or less than 35% as defined within the BS5252 standard colour palette; and*
- It is located within an approved building envelope and complies with design guidelines explicitly approved in a land use or subdivision consent; and*
- Any alteration / additions to the dwelling or structure do not exceed 20% of the gross floor area of the dwelling or 20% of the volume of the structure; and*
- It is required for maintenance to the interior and exterior of the dwelling or structure; or*
- It is required for renovations to the interior of the dwelling or structure;*
- It is not visible from a public viewing point on a public road, public reserve, the foreshore or CMA that is within 500m² of that building; and*
- Does not include Commercial or Industrial buildings.*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/18 be rejected, with the reason that 50m² floor area is considered sufficient for a farming shed. The rule is amended to focus on *buildings and structures*, instead of dwellings.

Federated Farmers opposes this recommendation, as 50m² floor area is too small by far for primary production buildings like hay barns, implement sheds, tractors sheds, and sheds for livestock management like wool sheds, milking sheds and calf-rearing sheds. Even a standard 7m wide by 12m long three-bay tin shed has a floor area of 84m² and would need a resource consent. Requiring farmers to apply for resource consent for a farm building that is over 50m² would create significant cost for both farmers and Council for very little benefit, because farm buildings will be appropriate on land that is used for primary production. For properties that have been entirely or mostly mapped as being within an ONL, this rule means a very real restriction of their farming operation.

Full discretionary status for buildings that do not meet this standard is unnecessary, and Restricted Discretionary status would be more appropriate. As with submission 453/15, Federated Farmers considers that discretion can be restricted to the adverse effects of the building on the specific qualities that made the landscape identifiable as outstanding. This means that resource users will know what factors their application will be assessed on so they can endeavour to avoid, remedy or mitigate adverse effects, while still retaining the the Councils ability to assess an application and approve or deny consent.

Federated Farmers submits that ONFL classification be removed from primary production land, or that the floor limit of buildings is increased to 500m² provide for farm buildings.

Relief Sought:

- That farm land is not identified as an Outstanding Landscape, or
- That the maximum floor area is increased to 500m², and
- That activity status is amended to Restricted Discretionary for those activities that do not meet the permitted standards.

453/19 Provision in the proposed Variation:

Appendix 18C: Additional Assessment Criteria when considering the effects of activities within Outstanding and Visual Amenity Landscapes within the Kaipara District.

The matters set out in s104 and s105, and in Part 2 of the Act, apply to the consideration of all resource consents for land use, development and subdivision, use and development activities. In addition to these matters and the general assessment criteria provided within the relevant chapter of the Plan, the following additional criteria shall also be considered. These criteria have been cross-referenced in the Zone Chapters in this Plan and will be triggered where a resource consent is required.

- Whether the proposal is consistent with and no contrary to the objectives and policies and outcomes contained in Chapter 18 Landscapes;*
- The extent to which the proposal is consistent with any Council adopted Design Guidelines;*
- The rarity of the landscape;*
- The visibility of the landscape;*
- The aesthetic, heritage, cultural and natural values of the landscape;*
- The elements which make up the distinctive character of the landscape;*
- The extent of visible change to the landscape which may result from an activity;*
- The extent to which adverse effects may be mitigated through screening or other means;*
- The degree of visual intrusion in the landscape;*

- (j) *The siting of the activity in relation to ridgelines or natural landscape features;*
- (k) *The design of any building, structure, utility, landform or any development;*
- (l) *The location and design of vehicle access, manoeuvring and parking spaces;*
- (m) *The potential for more than minor adverse effects on the landscape;*
- (n) *The extent to which the activity may adversely affect ecological values of indigenous flora and fauna;*
- (o) *Provisions for the permanent legal protection of the landscape;*
- (p) *The environmental effect of the increase in residential intensity and/or the extra lots in relation to the benefits of achieving permanent legal protection of a landscape;*
- (q) *The extent to which an application proposes revegetation and/or enhancement of the Outstanding Landscape Area, Outstanding Landscape Feature, or Outstanding Natural Feature, and the measures to secure the long term sustainability of the revegetation and/or enhancement;*
- (r) *The characteristics of the application site, including its size, shape and topography;*
- (s) *The effectiveness of any proposed pest control programme;*
- (t) *The relationship of people and communities with Outstanding Landscape Areas, outstanding landscape features and outstanding natural features;*

Where excavation and / or filling is proposed within a landscape the following specific criteria will also be considered:-

- (u) *The location, scale and alignment of excavation and/or filling in relation to any existing indigenous vegetation, site features, and underlying landform including ridgelines; and*
- (v) *The nature of any avoidance, remedying or mitigation measures proposed, including consideration of alternatives, the profile of cut and fill batters, provisions for revegetation and the likely long term stability of the works proposed; and*
- (w) *The degree to which the landscape will retain the qualities that make it outstanding, including naturalness and visual value.*

Summary of reasons for this submission:

The Section 42a Report recommends that submission 453/19 be accepted in part, and acknowledges that the criteria need to be amended to improve their clarity and meaning.

Federated Farmers submits that some of the assessment criteria need to be amended to focus on adverse effects of the proposed activity on the values of the ONFL. As currently written some criteria do not relate to the proposed activity, such as (c) *The rarity of the landscape;* and (d) *The visibility of the landscape;* are not able to be assessed as they do not relate to ways that the proposed activity could adversely affect the values of the landscape. For example, assessment criterion such as “the rarity of the landscape” is not actually able to be assessed in terms of how the proposed activity will adversely affect the rarity. The “design of the building” is also unable to be assessed in terms of adverse effects on the landscape.

For a balanced assessment, any actions that aim to avoid, remedy or mitigate adverse effects should also be considered, as well as positive elements of the proposal which may maintain or enhance the landscape, or will contribute to economic, social and cultural well being.

The matters for excavation and fill are already addressed; location, scale and alignment is already addressed by (e) (f) and (j) ; avoidance, remediation or mitigation of effects by proposed (u) and the landscape retaining its qualities by (f).

Relief Sought:

- That Appendix 18C is amended to read:
 - (a) *Whether the proposal is consistent with and no contrary to the objectives and policies and outcomes contained in Chapter 18 Landscapes;*
 - (b) *The extent to which the proposal is consistent with any Council adopted Design Guidelines;*
 - ~~(c) *The rarity of the landscape;*~~
 - ~~(d) *The visibility of the landscape;*~~
 - (e) *The extent that the proposed activity will adversely effect the aesthetic, heritage, cultural and natural values of the landscape;*
 - (f) *The extent that the proposed activity will adversely effect the elements which make up the distinctive character of the landscape;*
 - (g) *The extent of visible change to the landscape which may result from an activity;*
 - (h) *The extent to which adverse effects may be mitigated through screening or other means;*
 - (i) *The degree of visual intrusion in the landscape;*
 - (j) *The siting of the activity in relation to ridgelines or natural landscape features and adverse effects arising from the location of the activity ;*
 - (k) *The extent of adverse effects arising from the design of any building, structure, utility, landform or any development;*
 - (l) *The extent of adverse effects arising from the location and design of vehicle access, manoeuvring and parking spaces;*
 - (m) *The potential for more than minor adverse effects on the landscape;*
 - (n) *The extent to which the activity may adversely affect ecological values of indigenous flora and fauna that is identified as significant;*
 - (o) *Provisions for the permanent legal protection of the landscape;*
 - (p) *The environmental effect of the increase in residential intensity and/or the extra lots in relation to the benefits of achieving permanent legal protection of a landscape;*
 - (q) *The extent to which an application proposes revegetation and/or enhancement of the Outstanding Landscape Area, Outstanding Landscape Feature, or Outstanding Natural Feature, and the measures to secure the long term sustainability of the revegetation and/or enhancement;*
 - ~~(r) *The characteristics of the application site, including its size, shape and topography;*~~
 - ~~(s) *The effectiveness of any proposed pest control programme;*~~
 - (t) *The extent of adverse effects arising form the proposal on the relationship of people and communities with Outstanding Landscape Areas, outstanding landscape features and outstanding natural features;*
 - (u) *Any actions to be taken to avoid, remedy or mitigate adverse effects arising from the proposal on the Outstanding Landscape Area;*
 - (v) *Any actions taken that will maintain or enhance the values of the Outstanding Landscape Area, and*
 - (w) *The extent to which the proposal contributes to economic, social and cultural well being.*

~~Where excavation and / or filling is proposed within a landscape the following specific criteria will also be considered:-~~

- ~~(u) *The location, scale and alignment of excavation and/or filling in relation to any existing indigenous vegetation, site features, and underlying landform including ridgelines; and*~~
- ~~(v) *The nature of any avoidance, remedying or mitigation measures proposed, including consideration of alternatives, the profile of cut and fill batters, provisions for revegetation and the likely long term stability of the works proposed; and*~~
- ~~(w) *The degree to which the landscape will retain the qualities that make it outstanding, including naturalness and visual value.*~~ Or words to this effect.

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 businesses. 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.

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

Federated Farmers thanks the Kaipara District Council for considering our submission to Variation 1 of the Kaipara District Plan.

