

COMMENT

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To: The Chief Executive Officer
Rotorua District Council
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Comments on: **Draft Rotorua District Plan 2011**

Comments by: Federated Farmers of New Zealand

Date: 31 July 2011

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1. INTRODUCTION

- 1.1** Federated Farmers of New Zealand appreciates the opportunity to provide comments on the Draft Rotorua District Plan for the Rotorua District.
- 1.2** Agriculture represents a significant industry within the Rotorua District. Because of the nature of farming, our members are constantly interacting with the district's resources and are highly aware of the importance of managing the resources effectively, responsibly, and sustainably, in order to ensure the continued viability of their farming businesses, not just for themselves but for future generations.
- 1.3** Federated Farmers is supportive of and acknowledges the submissions of other industry stakeholders such as DairyNZ, and Fonterra.
- 1.4** Federated Farmers looks forward to working closely with the council on the development of this District Plan in more detail, particularly regarding knowledge of farming systems and the ramifications of any policy changes on social and economic wellbeing.
- 1.5** The Federation would be happy to meet with the Council to discuss this further.

2. GENERAL COMMENTS

- 2.1** The District Plan needs to retain the flexibility to permit or provide for new technologies as they are developed. Council needs to ensure that, when discussing methods, tools, and mitigation options, that these are specific enough to be effective but do not relate to specific technologies, as this will limit the council from being able to use or provide for the use of other, newer, possibly more effective technology that is developed over the next ten years. For example agricultural technology such as effluent mitigation tools are rapidly being improved and new tools developed, so council would not want to limit itself to utilising current tools such as the specific effluent holding tanks and settling pond systems, which would discount potential new tools such as more efficient holding tanks and settling pond systems and nutrient stripping plants such as watercress.
- 2.2** The importance of the economic use of land needs to be recognised throughout the District Plan. A significant proportion of the District is dedicated to earning a living off the land, which provides not only for those families, but contributes to district and regional wealth.
- 2.3** In light of the significant contribution agriculture makes to the region, and the stewardship inherent in operating a farming business, the District Plan should have a more positive view of agriculture. For example, 'high nutrient use' does not necessarily cause an adverse environmental effect; it is the efficient management of nutrients that is the important factor. For example green house hydroponics is a "high nutrient use" activity but has no effect on the receiving environment. The intensive use of land, managed properly, can have minimal impact on the environment and may include positive impacts such as riparian planting. The Federation would be very concerned if this lack of understanding of farming systems were to be incorporated in the District Plan. It is

disappointing to see the draft has not addressed these concerns despite them being brought to the council's attention in our previous feedback.

- 2.4** The District Plan should not be restrictive and should focus on non-regulatory methods such as education and partnerships rather than have a priority focus on regulation. Non-regulatory methods are effective in engaging resource users to work with the council towards achieving mutual goals and is a more efficient way of achieving 'buy-in' from resource users. Resource users are more likely to engage and work proactively in partnership with council when they have a sense of ownership of and responsibility for the targets and activities being carried out, and feel that they have been an active participant in the decision-making process. Education is an important tool, particularly for issues that are not well-known or where perceptions need adjusting. As people gain more accurate knowledge about issues important in the region, misconceptions will reduce and people will be more willing to proactively engage in non-regulatory solutions. A reduction in misconceptions will also result in more realistic and achievable community expectations. The need for some regulation is accepted, but Rotorua District Council needs to be sure that it is the most appropriate method before introducing a rule, or a requirement for land owners to adhere to.
- 2.5** In the context of longer term aims and goals for the district, the policies, objectives, and anticipated outcomes should be realistic and achievable within the District Plan's timeframe. For example, land use change goals should take into account the impact on the local economy from productivity loss on the ability to achieve measurable results within the life of this plan.
- 2.6** Federated Farmers would like the Section 32 analysis which is in part, informing this draft Rotorua District Plan made available to the public on the Rotorua District Council website.
- 2.7** Federated Farmers is generally concerned that the draft District Plan does not complement existing Regional plan objectives, policies and rules. In fact in several chapters there is clearly a different policy approach to existing plans. Federated Farmers believes there needs to be aligned with regional policy and bordering District's plans.

3. SPECIFIC COMMENTS

3.1 PART ONE – DEFINITIONS

Federated Farmers understands the purpose and is broadly supportive of the issues addressed and sentiment expressed in Part One of the draft Rotorua District Plan. However there are some points made which in our view give either unnecessary emphasis or are open to interpretation and are therefore unhelpful.

Federated Farmers is concerned with the paraphrasing of what sustainable management as per the Resource Management Act (RMA) means. In our opinion it places an incorrect focus on the environment. It would be more appropriate and accurate to include the actual wording from section 5 of the Act. The RMA meaning of the term 'environment' is much broader than the common understanding, including people and communities, not just the natural and physical resources. Whilst this introduction section recognises to a degree both components of section 5 of the Act,

Federated Farmers is concerned that the balance is not always reflected in other sections of the draft Rotorua District Plan

This distinction needs to be made clear. It is vital that the Rotorua District Plan strikes the right balance between resource use and environmental protection as it sets the context for both regulatory and non-regulatory management approaches by the local authorities across the region. The Rotorua District Plan has to recognise the legitimacy of productive activities and provide for existing ones to continue and for new ones to develop, within the context of not allowing unreasonable environmental effect.

Part one also informs statement users about the structure of the draft Rotorua District Plan. The way the draft document is structured with the policies and methods separated out from the issues and objectives means that it can be confusing in how it addresses a specific resource issue. Plan users are best served when all relevant aspects relating to an issue are grouped together under the respective topic headings such as Air Quality, Coastal Environment, Land use and Water Quality etc.

Relief sought:

- a) Ensure the Structure of the plan is logical.
- b) Quote the relevant RMA sections in their entirety and do not paraphrase.

3.2 PART THREE – MATTERS OF NATIONAL IMPORTANCE

Federated Farmers acknowledges and generally supports the approach the draft Rotorua District Plan is taking with regards to Section 6 RMA matters. However, there is limited recognition of the vital role that landowners play in achieving objectives relating to resources on privately owned land. Consultation with landowners is crucial for the protection of historic heritage, biodiversity, and landscapes and natural features on private land, because without landowner acknowledgement and “buy in” on going, positive management is unlikely to occur.

We believe that an obligation to consult with affected landowners does not give them greater status than any other party to the process, but rather recognises that landowner input is integral to achieving successful environmental outcomes. Council needs to provide more forums for community groups to meet together to gain greater understanding of issues in the community. Resolution of potential conflicts can best be achieved by communities working informally, as well as through the formal submission/hearing process. In our opinion this is where policies based on fully integrated catchment management could be implemented effectively.

Further the requirement to consult should not be thought of as only a statutory consultation required by the Act. The early engagement of landowners in the formation of objectives, policies and rules that impact on the management of their land is critical to any successful outcomes of regional

environmental objectives. Without early engagement, that may include farmer reference groups, one on one consultation where a plan directly relates to a property or field testing rules before they are applied, it is highly likely any proposed changes will result in an adversarial process. Enduring partnerships between Council and landowners will be much more effective in achieving regional objectives than endless rounds of submissions, hearings and appeals. The only way to achieve these partnerships is through engaging landowners early in the process about any proposed changes that will impact on them, providing them with alternatives and offering them the opportunity to address any resource management challenges at an on farm level.

A lack of formal protection for indigenous vegetation is not an indication that these areas are not being maintained or even enhanced by private landowners but rather that the cost of this public benefit is falling squarely on the shoulders of the private land owner. Formal protection is not itself a measure of biological value or management. Further to place an emphasis of significance on this issue has the potential to offend and isolate landowners, particularly the ones who take their ethic of stewardship seriously. Sustainable management is fundamental to the philosophy of the New Zealand Farmer – their business and lifestyle requires that natural resources be sustained for current and future generations.

We also acknowledge that councils are charged with the responsibility of balancing the safeguarding of indigenous ecosystems with the ability of people and communities to use and develop natural and physical resources for their social, economic and cultural wellbeing as prescribed under Section 5 of the RMA. However, as is often the way the devil is in the detail and the methods used by councils to meet these RMA obligations can have major implications for our members so as you would expect Federated Farmers pays particular attention to them.

Section 3.1.3 states “the chapter also seeks to improve and enhance public access within the district”. Federated Farmers would ask council to consider the impacts of this enhanced access on the owners of private reserves and also the adjacent land owners. There are often flow on effects of vandalism and littering that coincide with enhanced access and private land owners should not have to bear this cost.

In section 3.1.11 we are disappointed to note that no recognition is given to the significant contribution landowners have made towards the protection of the ecosystems which exist on privately owned land today. It is important to remember that there are many areas of indigenous ecosystems left and these remain as part of and along side existing land use practices. In light of this we wish to remind council that sustaining biodiversity/ecosystems on private land requires goodwill, co-operation and individual commitment of landowners and land managers – bear in mind the imposition of regulation will not achieve this. Council should recognise that to achieve meaningful protection, there must be a benefit to the landowner as well.

Policy 3.2.1.2 does not consider the costs to the private land owner of fencing of waterways, maintain pests and weeds and the time taken to undertake these tasks. This Policy should encompass a cost sharing where there is a public benefit at the expense of a private land owner. This is inconsistent with Policy 3.2.1.3 where it does provide for maintenance of the natural Character of lakes, rivers and streams.

Objective 3.2.2 and the following policies 3.2.2.1 to 3.2.2.7 only assess the requirements of the lakes, rivers and streams from the perspectives of public access, margin protection or water quality improvement. There is no mention or consideration of the private land owner. It is a very ambitious objective to want to implement a network adjoining the districts lakes, rivers, streams and wetlands for the purposes listed in the draft plan. There is no consideration of who will pay for the establishment and maintenance of this network over the life of this plan. Also where the adjacent land and waterway is privately owned there is no provision for a process of engagement or on-going management of the network.

Relief sought

- a) Amend the chapter and council practices to address the concerns listed above
- b) Amend Section 3.1.3 to read “the chapter also seeks to improve and enhance public access to council owned reserves”.
- c) Amend Section 3.1.7 Public Access to lakes, rivers and streams to acknowledge that where access to lakes, rivers and streams is over private land that council will be responsible for damage to privately owned assets and that access can be denied by the land owner in a dispute situation.
- d) Amend Section 3.1.11 to recognise the effort private land owners have made to protect SNA’s and that they do not have to be formally protected to be considered protected.
- e) Amend Policy 3.2.1.2 to reflect a cost sharing for public good initiatives. For example fencing off a waterway and the on-going weed and pest management expenses.
- f) Amend objective 3.2.2 and the following policies 3.2.2.1 to 3.2.2.7 to include provision for consultation and on-going management and maintenance of the esplanade network for the life of this plan.
- g) Policy 3.2.4.2 all use of emotive language such as “sympathetic”, “enhanced”, or “exacerbated” should be removed.
- h) Policy 3.2.5.1 Delete the flowing “Expressiveness and legibility”, “Transient values”.
- i) Amend Policy 3.2.6.1 to reflect existing land uses the adjoin significant natural areas are permitted.
- j) Amend Policies 3.2.6.2 and 3.2.6.3 to give priority to these land owners to get assistance from council for fencing and maintenance cost of mitigation costs. This is more the case where planted areas are a council priority to link two existing SNA’s.
- k) Relief sought for Table 3.3 Activities related to matters of national importance:

- Activity Class 10, 11 and 12 – do not link to part 13, write the same text in table 3.3.
- Activity Class 13 should be controlled on private land
- Activity Class 14 should be controlled on private land
- Activity Class 15 should be controlled on private land
- Activity Class 26 should be controlled on private land
- Activity Class 27 should be controlled on private land
- Activity Class 34 should be controlled on private land
- Activity Class 37 should be controlled on private land
- Activity Class 38 should be controlled on private land
- Activity Class 47 should be controlled on private land
- Activity Class 48 should be discretionary on private land

3.3 PART TEN – RURAL

Federated Farmers is concerned with the part of the draft plan and what has been identified as significant issues in the introduction of some chapters.

Section 10.1.6 states *“As in most parts of New Zealand, cows are a part of the rural landscape in the Rotorua District, but whether this is the best use for land where runoff can influence the health of the highly regarded lakes is one of the major issues this District Plan attempts to address”*.

Cows are only one of the contributing factors to influence the Rotorua Lakes health and therefore by only listing them as a contributing factor this is targeting one activity and one land use. There is no reference to other land uses or other activities that contribute to the lakes degradation. Issues such as domestic sewage impacts on the lakes are excluded even though there has been extensive public consultation on this issue. Water fowl numbers are on the rise for black Swan and Canada Geese and yet there is no concern for this issue as well even though their excreted coliforms can be directly traced as a pollution source. Again in the water quality section 10.1.7 “Rural sources of nutrients are usually from diffuse sources such as animal waste and fertiliser application” and also in rural character and amenity section 10.1.9 “Although land use has the ability to impact on water quality...” similar statements single out one land use as the source of declining water quality.

In Zone 1 the rural working zone there needs to be clear use of language that truly reinforces the ability for rural activities to continue to be carried out. Reverse Sensitivity issues need a very clear definition.

In section 10.2 Objectives and policies policy 10.2.1.1 has no consideration to the economic impact of promoting low nutrient land use and agricultural practices. There is also no reference or acknowledgement of industry initiatives such as the “The Fertiliser Code of Practice” or the promotion by industry of “Nutrient Budgets” for efficient nutrient use. Efficiency is what the industry has been focusing on through the dairy industry “Clean Streams Accord” for the last ten years.

Policy 10.2.1.5 seeks to promote a change from animal grazing to indigenous vegetation. Again this should be the land owners' choice. There is no economic consideration of what impact this policy will have on the districts economic well being.

Table 10.3 Activities in Rural Zones has a number of concerns for Federated Farmers. Activity class 6 "has a default to Non-Complying Activity (NC) this is not consistent with the Resource Management Act.

In Section 10.4.4.2 rural noise limits need to be raised to 55 Aeq at all times. Farming activities noise levels are constant and other parties need to appreciate, anticipate and expect these usual rural activity levels seven days a week in the rural environment. Most farmer start milking before 7am and where existing dairy shed are operating this reverse sensitivity issue need to be considered.

10.4.4.5 Where establishing or replanting plantation forests a 30 metre is too much land for a set back. There are many cases of weed intrusion and in steep inaccessible land this is extremely hard to control. The set back should be 10 metres.

Section 10.5.8 Conversion from a high nutrient output activity to a low nutrient output activity needs to be reworded.

Relief sought

- a) Reword sections 10.1.6, 10.1.7 and 10.1.9 as to not target one land use and one activity 'cows' as a health influencing factor of the Rotorua lakes.
- b) Avoid using emotive language and only state facts. Phrases like "highly regarded" and "impressive volcanic landscapes" lead the reader and is not appropriate.
- c) Where rural practices or activities are referred to as 'expected' in this plan it should be expanded to "anticipated and expected".
- d) Reword section 10.2.1.1 to read "efficient nutrient use" and not low nutrient inputs.
- e) Delete policy 10.2.1.5.
- f) Delete viewshafts from Policies 10.2.3.4 and 10.2.4.3.
- g) Add the wording "anticipated and expected" to Policy 10.2.4.2
- h) Delete the following text from Policy 10.2.6.2 "A reduction in nutrient discharge".
- i) Amend the Activity Classes 22, 24, 25, 26 and 27 in table 10 as outlined above.
- j) Relief sought for table 10.3 Rules for activities in the rural zones:
 - Change Activity class 6 to a Discretionary Activity Status (D).
 - Activity Class 22 should be a controlled (C) activity status for Rural 2 zoned land.
 - Activity Class 24 should be deleted as there is no definition in the draft plan and industry is already promoting this land practice.
 - Activity Class 25 There is no definitions for either high nutrient output or low nutrient outputs so this activity class should be deleted.

- Activity Class 26 the enclosure of livestock should not be a discretionary activity as this would contradict the incentive to build a herd home with a cost of consent.
 - Activity Class 27 should be deleted.
 - Activity Class 65 for rural contactors in a Rural 1 zone should be changed to a Permitted Activity (P).
- k) 10.4.4.2 raise Rural Noise limits to 55 Aeq at all times as farming activities noise levels are constant and other parties need to appreciate, anticipate and expect these usual rural activity levels seven days a week in the rural environment.
- l) 10.4.4.5 where establishing or replanting plantation forests the set back should be amended from 30 metres down to 10 metres.
- m) Reword Section 10.5.8 to “Conversion from a high nutrient output activity to nutrient efficient activity”.

3.4 PART ELEVEN – RESERVES AND RECREATION

Federated Farmers has concerns that the property rights of private land owners can be eroded with some of the proposed activity policies and class restrictions in the draft plan.

Public Access to waterways through reserves Section 11.1.2 are of particular concern when the reserve is privately owned or adjacent to privately owned land. There can be a lot of nuisance issues such as gates left open and, rubbish left behind for private land owners to rectify. Often the public wander onto private land and do not even know it is not part of the reserve.

Policy 11.2.9.3 with regards to esplanade reserves states the can be acquired during subdivision “or other appropriate opportunity” is loose wording. When would this be appropriate? There needs to be an open an transparent consultation and a result met that both council and the land owner are in agreement with.

Policy 11.2.10.1 states indigenous biodiversity should be maintained and enhanced through the listed methods. Again where this is private land this needs to be tat the land owners discretion.

Table 11.3 District Wide Matters, Activity Classes 11 – 16 (see part 3 relief sought). Section 11.4.2 Reserves on privately owned land performance standards need to be realistic and logical as to not diminish property rights or lower the value of the land.

Relief sought

- a) Amend Policy 11.1.2 Public Access to quote the actual functions rather than a link to Part 3 of the draft plan.
- b) Policy 11.2.9.3 delete “or other appropriate opportunity”
- c) Policy 11.2.10.1 delete “and enhance”.

- d) Relief sought for table 11.3 Activities in the reserves and recreation zones:
- Activity Class 11 see part 3 recommendations
 - Activity Class 12 see part 3 recommendations
 - Activity Class 13 see part 3 recommendations
 - Activity Class 14 see part 3 recommendations
 - Activity Class 15 see part 3 recommendations
 - Activity Class 16 see part 3 recommendations
- e) Section 11.4.2 Reserves on privately owned land performance standards. Ensure privately owned land property rights are not eroded.

3.5 PART THIRTEEN – SUBDIVISION

Primary production activities such as dairying and dry stock farming make significant contributions to the economic, social and cultural well-being of the Rotorua District. These activities also have a positive impact on the economic sustainability and continued viability of many of the district's Rural settlements such as Reporoa or Mamaku.

Federated Farmers believes that when undertaking a review of district plan policy it is essential that Council take into account, and balance the economic, social, cultural and environmental considerations of any particular policy or provision.

Many Federated Farmers members feel strongly about protecting the productive capacity of soil, and property sizes that are able to be used for primary production that is financially viable. Smaller rural-residential properties can also contribute to the social fabric of rural communities by allowing retired farmers to remain in the area, and can also be used by agricultural workers who are employed by local farms.

The District Plan needs to retain flexibility so that subdivision and development can be assessed on a case-by-case basis. Development opportunities which contribute to farm succession and the social and economic well being of the communities Rotorua need to be maintained.

Reverse Sensitivity

One of the key issues confronting pastoral farmers today is that new and typically urban development, in (or into) a rural area is adversely affecting the ability of existing and legitimately established primary production activities to operate.

In many cases new-comers to the rural environment who are not directly involved in primary production activities, hold unrealistic expectations regarding this environment and the nature of activities that occur within it, especially in terms of odour, noise and dust. Consequently, those landowners engaged in these existing, anticipated and lawfully established activities become the subject of newcomer's complaints. Local authorities have tended to address these complaints

through regulations that limit the nature and scale of primary production operations. New-comers into a rural environment should anticipate and expect these rural activities to occur.

Federated Farmers considers that any provisions that seek to protect residents from farming activities does not adequately address reverse sensitivity effects and instead provides an opportunity for new residential activities to establish in rural environments at the expense of the existing rural activities. Council needs to propose provisions that enable these existing lawfully established rural activities to continue and prosper as part of the existing rural environment.

Relief sought

- a) Ensure policies and methods have the ability to take into account differences between urban and rural environments and address the concerns outlined above.
- b) Ensure Reverse Sensitivity definition includes “Anticipated and Expected” in the definitions and throughout the document in regards to existing rural farming activities..

3.6 PART FOURTEEN – NATURAL HAZARDS

The Natural Hazards chapter should take into account the differences between the rural and urban environments. While it may be appropriate to focus on avoidance for urban areas due to the density of buildings and population, mitigation options, including hard protection structures, may be more appropriate for rural areas where there is less population and lower building density, and many of the buildings are uninhabited. There are also limited options for locating rural activities in other areas as opposed to urban development. Many rural areas, as a result, also rely heavily on mitigation infrastructure to remain viable, and their importance to the rural area should be recognised and distinguished from the use of such protection structures in urban areas.

Relief sought

- c) Ensure policies and methods have the ability to take into account differences between urban and rural environments and address the concerns outlined above.

3.7 PART FIFTEEN – FINANCIAL CONTRIBUTIONS

Financial Contributions are always a balance between how much cost is charged up front through development contributions and having a process to assess additional cost of providing services to a higher density population.

Federated Farmers agrees that there needs to be clarity between the ‘Development Contribution’ and the ‘Financial Contribution’ and how they are implemented with regards to subdivision resource consent applications and the infrastructural requirements of a growing community. Federated Farmers also can see how the growing demands on infrastructure with subdivisions.

However this not a reason to pursue cost associated with network infrastructure assets such as wastewater, water supply, storm water and land transport that should have been catered for in the

district plan by proposing a plan change and increasing the scope of charges a 'financial contribution' can be used for. Local Government Act clearly states that 'Development Contributions' can only be used for infrastructural requirements. Section 15.3.5 is a concern for Federated Farmers as this seems to be a 'catch all' policy.

Council needs to have taken into account 'unplanned infrastructure' when drafting its district plan.

The Financial Contribution should not be used for contributing land for protection of archaeological sites, protection of cultural heritage, or to offset effects of natural heritage values. This should only happen where an agreement is reached with the applicant.

Relief sought

- a) For Section 15.3.5, ensure there is a clear separation of "financial contributions" and "development contributions". Do not use financial contributions as a catch all back up mechanism where landowner bare the cost of poor planning b council.
- b) Ensure where financial contributions are used in relation to esplanade reserves on private land that rural land owners existing land rights are not compromised.

SUBMISSION ENDS