

SUBMISSION

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Submission on: **Plan Changes 1-27 to the Western Bay of Plenty District Plan**

Submission by: Federated Farmers of New Zealand
Bay of Plenty Province

Date: 16 December 2011

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We wish to be heard in support of our submission.

The Bay of Plenty Province of Federated Farmers appreciates this opportunity to submit on Plan Changes 1-27 to the Western Bay of Plenty District Plan. We acknowledge any submissions made by individual members of Federated Farmers.

Primary production activities such as dairying and horticulture make significant contributions to the economic, social and cultural well-being of the Western Bay of Plenty district. These activities also have a positive impact on the economic sustainability and continued viability of many of the district's towns such as Waihi and Katikati.

Federated Farmers believes that when undertaking a district plan review it is essential that Council take into account, and balance the economic, social, cultural and environmental considerations of any particular policy or provision. Careful consideration is needed to ensure that all provisions will achieve sustainable management within its meaning as outlined in Section 5 of the RMA, and that regulations meet their intended purpose without unintentional outcomes.

1 Provision in the proposed Plan Change:

Plan Change 1- Rural Contractor Depots

Summary of reasons for this submission:

Federated Farmers strongly supports the permitted status of Rural Contractors Depots and appreciates the Council addressing our concerns. This permitted status acknowledges that rural contractors are vital to the agricultural and horticultural industries. Rural contractor depots are appropriately located in the rural zone to be close to clients and carry out jobs such as permanent or seasonal crop harvesting and planting, fertiliser and agrichemical application, earthmoving and fencing.

Contracting is a common supplementary business to farming and horticulture. The situation where father runs the farm and son runs the contracting business from the same property is extremely common. Likewise many contracting businesses are located on a property that is large enough to take livestock, and contract out grazing or run their own stock. Both types of scenarios are appropriate and need to be provided for in the rural zone, as they positively contribute to the efficient use of natural and physical resources and the local economy of the district.

Performance standard k(i) limits rural contractor depots to an area of 1000m², but there is no definition of "site" which sheds light on whether this means an entire property or just the area that is used for the depot. Further defining a "site" as a property with a Certificate of Title would clear up any possible misinterpretation. Limiting depots to rural-residential properties that are only 1,000m² is not effects-based management. Restricting depots to rural-residential areas would create more conflict than allowing depots to exist on farms where the larger scale of the property acts to buffer effects from neighbours. Federated Farmers believe there is no need for a limit and this standard should be deleted.

Performance Standard k(ii) states a maximum of 3 persons be the limit. Federated Farmers believes this should be 5 persons.

Performance Standard k(v) requiring a setback of 60 metre to a dwelling or minor dwelling is impractical and will compromise the horticultural sector. Many orchards are in close proximity to one another and it is common to have worker accommodation or the owner's dwelling located on the property. The 60 metre setback will be unachievable for many of these close together orchard properties. In these cases adverse effects of the contractors' depot will be screened by the orchard trees and boundary plantings. Federated Farmers submits that Standard k(v) be deleted.

Relief Sought:

- That Rural Contractor Depots are a permitted activity on rural properties.
- That "site" is further defined in the performance standards as a property with a Certificate of Title.
- That Performance Standard k(i) is deleted
- That Performance Standard k (ii) is amended to read:
The Rural Contracting operation carried out by a maximum of 5 persons, a minimum of one who shall reside on site.
- That Performance Standard k(v) is deleted.

2 Provision in the proposed Plan Change:

Plan Change 2 – 9.6 (Hazardous Substances) Matters of Discretion

Summary of reasons for this submission:

Federated Farmers is concerned that Table 1 *Hazardous Substance Quantity Thresholds* will unintentionally capture on-farm storage of agrichemicals and fertilisers. While Table 1 is not being changed, Federated Farmers considers that this is a good opportunity to take another look at the Hazardous Substance rules and refine them to avoid issues around purpose, interpretation and enforcement.

Hazardous substance rules around permitted quantities by class is an issue that has come to Federated Farmers attention lately, and we have submitted and appealed on a number of District Plan reviews and even approached the Environmental Protection Agency recently to discuss existing HSNO requirements and their relation to district plan rules.

Hazardous substance rules are often intended for large scale storage of hazardous substances that are dangerous because of toxicity or explosiveness relating to Section 31(b)(ii) *Functions of Territorial Authorities* of the RMA, however it captures innocuous and everyday substances like fertiliser that are stored and used on farms and orchards. Rule 9.3.1 explicitly exempts activities such as trade waste and retail storage from the quantity limits, yet the storage of agrichemicals and fertilisers are of similar or lesser effect and will be caught by the Rule under Class 6. This results in a situation where farmers are technically non-compliant. This is a problem for both Council and resource users.

It is very difficult for resource users such as farmers to interpret and use permitted quantities tables. Information as to what agricultural products contain what hazardous substance components is difficult to come across. Federated Farmers respectfully asks if the Council is confident that it has the ability to interpret Table 1 and that it's intended purpose is being met.

Hazardous substances are already controlled by the Hazardous Substances and New Organisms Act 1996, and Agrichemicals are managed through NZS8409 and fertilisers in particular under Fertilisers (Subsidiary Hazard) Group Standard 2006 HSR002571.

Federated Farmers submits that Table 1 is deleted, and that the Council relies on the Hazardous Substances and New Organisms Act 1996, and the Industry Group Standards which can be found on the Environmental Protection Authority website. Group Standards are developed by public notification and consultation, and any new substance that fits the criteria of a group standard is automatically deemed an approved substance under the Hazardous Substance and New Organisms (HSNO) Act.

Relief Sought:

- That Table 1 Proposed Hazardous Substance Quantity Thresholds is deleted, or
- That substances associated with primary production are exempted from Table 1 Proposed Hazardous Substance Quantity Thresholds.

3 Provision in the proposed Plan Change:

Plan Change 4- Natural Hazards

Summary of reasons for this submission:

Federated Farmers is concerned that farming buildings and structures may be captured by rules relating to natural hazards despite not increasing the level of flood hazard risk.

Federated Farmers submits that the focus should be on adverse effects arising from land use and development rather than the activities themselves, and adverse effects should be avoided, remedied or mitigated to retain consistency with Section 31(1)(b)(i) of the RMA. Regulation should not unnecessarily restrict land use that is appropriate for the location susceptible to natural hazards, like farming.

While Federated Farmers is very supportive of the permitted status of buildings/structures on approved building sites in Rule 8.3.1, there seems to be no definition of "*approved building site*." We assume this relates to buildings assessed under the Building Act 2004. This creates problems with the definition of *building* capturing structures like deer fences over 2m high, although a fence is unlikely to increase flood hazard or experience the scale of damage that a dwelling may.

Federated Farmers considers that the flooding rules should not capture farm building or fences. Small buildings such as pump sheds, and farm implement sheds with concrete or dirt floors would not experience so much damage from flooding as a dwelling. Policy 8.2.2.2 District Plan (2011 Annotated version) only seeks to control activities which have the potential to increase the extent to which

natural hazards have an adverse effect on human life or the natural or built environment, so fences and rural buildings would not fit this description.

Earthworks over 5m³ as a restricted discretionary activity in floodable areas in Rule 8.3.3(b)(ii) is *extremely* restrictive and Council would be processing resource consent applications for activities like clean filling around troughs which will have no affect on flooding. The purpose of the rule needs to be further delineated as to prevent normal farming activities in the appropriate rural zone being captured. Most of the areas shown to be floodable in Map G14 (Operative Plan) are rural, and rural land use is appropriate and well-established here, and earthworks are vital for farming to continue.

The Council does not want to create the situation where farming can no longer continue due to flood hazard regulation, so that landowners might as well change land use to rural-residential as houses will be permitted whereas farming earthworks will not be.

Relief Sought:

- That buildings and structures that have obtained building consent are permitted within natural hazard zones, and
- That fences and farm buildings are permitted within flood hazard areas, and
- That farming earthworks are permitted in flood hazard areas.

4 Provision in the proposed Plan Change:

Plan Change 5- Electricity Transmission Buffer Zones

Summary of reasons for this submission:

Federated Farmers opposes Transmission Buffer Zones and submits that they be deleted. Federated Farmers is concerned that the buffer zones are a mechanism to solely protect transmission line companies' interests and circumnavigate individual easement agreements with landowners.

Federated Farmers has had discussions with WBOPDC and Transpower on this proposed plan change, as stated in section 4.0 of the Section 32 Report. In those discussions the concerns of landowners that the proposed buffer zone, in particular the outer zone or "Buffer Zone B", are excessive to the purposes of safety and security of electricity supply were expressed.

Federated Farmers is an organisation with considerable experience working with farmers in matters related to national grid transmission lines on their land. In particular we work with landowners on matters of access to the farm, when it is sought by Transpower for maintenance or upgrade purposes, and easements.

Federated Farmers agrees that there are safety considerations to be taken into account in relation to Transpower transmission lines (the National Grid). In addition we accept that local authorities have certain responsibilities placed on them by documents such as the National Policy Statement on Electricity Transmission (NPSET).

We also recognise that NPSET records the national significance of the National Grid and requires “decision makers” (territorial authorities) to “recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission.”

At the same time however the NPSET does not require decision makers to ignore the negative aspects of the National Grid some of which are perceived to be contradictory to the requirements of the Resource Management Act (RMA). Section 5(2) of the RMA specifically refers to the need for communities to provide for their social, economic, and cultural well-being. Consequently it is an obligation for decisions makers to declare any drawbacks to providing for this to the District Community in their plans and make provision to alleviate the adverse effects.

Federated Farmers contends that the proposed buffer zone and associated restrictions are excessive, with a total overall width of 64 metres. It is in particular the restrictions in the 12m-32m zone of the corridor that is considered excessive.

It is worth considering that the outer buffer zone represents a considerable area of land. The 40 metres of outer zone area represents a total of four hectares of land per lineal kilometre of line. It is of concern that Transpower seeks to restrict activities within that area through regulatory processes, that impose costs upon the community, rather than negotiating with the landowner, and agreeing on an easement as is the requirement for new lines and significant upgrade to existing lines under the Electricity Act 1992.

Federated Farmers consulted with members affected by this proposed plan change, in response to a letter sent to them by Western Bay of Plenty District Council, dated 22 August 2011. In summary they were concerned;

- At the scale of the proposed corridor, which appears excessive to the purpose of protecting the transmission lines on private rural land in the Bay of Plenty.
- That the proposed plan change will supplant the rights and obligations the national grid operator would normally secure by way of compensated easement agreements with affected landowners.
- At the proposed corridor’s potential effect of limiting the ability of farmers to carry out existing farm practices within the area of land affected by the corridor.
- At the limitations on future land use arising from the restrictions within the corridor, and the imposition of cost and obligation associated with obtaining resource consent for certain activities.

The landowner concerns listed at Section 4.0 of the Section 32 report are also acknowledged, and we urge council to have regard to them.

The National Grid imposes considerable cost on a landholder trying to operate a legitimate business on land legally held by him/herself in the District. Existing transmission lines were largely established without compensation to landowners, who in effect contribute capital to the national grid by providing its platform free of charge.

The Electricity Act 1992 includes provisions to rectify this over time, with the requirement that easements be negotiated with landowners where new lines are to be constructed across private land,

and where existing lines are upgraded to the extent that they create an additional loss of value to the land on which they are situated.

Within these easement agreements safety and protection provisions are afforded to Transpower to ensure the transmission line remains and is not interfered with in perpetuity. In exchange for these rights Transpower pays a sum of compensation to the landowner.

Federated Farmers is concerned that the buffer zone provisions will supplant the rights of landowners to achieve compensation when future upgrades to transmission lines are carried out.

In our experience working with landowners negotiating easements with Transpower the easement widths do not necessarily extend to 64m. A Transpower fact sheet indicates that 50m can be sufficient. We are unclear as to the reasons why, when purchasing an easement, 50m is considered satisfactory protection, when seeking provisions in the District Plan however the total width for all lines is a uniform 64m.

Additionally, as we understand it, the law relating to hazards on properties put the onus of care onto the landowner. In the absence of an easement agreement it is the landowner who is liable for action under the Health and safety in Employment Act. Costs incurred through such action could be substantial, yet the major beneficiary and probable exacerbator (Transpower) appears to have no such liability.

It is the view of Federated Farmers that the current protections afforded national grid lines crossing private land in the Western Bay of Plenty rural area – through the Electricity Act 1992, the New Zealand Electrical Code of Practise for Electrical Safe Distances (NZCEP 34:2001) - are sufficient to protect the safety of residents and workers in their vicinity.

Federated Farmers opposes Transmission Buffer Zones and submits that they be deleted. Federated Farmers is concerned that the buffer zones are a mechanism to avoid individual easement agreements with landowners.

Relief Sought:

- That Transmission Buffer Zones and subsequent provisions are deleted from the District Plan.

5 Provision in the proposed Plan Change:

Plan Change 5- Electricity Transmission Buffer Zones: Activity Table 10.3

Summary of reasons for this submission:

Primary production activities currently occur around and under transmission lines, without compromising security of supply or safety. Such activities should be enabled to continue. As currently proposed, Table 10.3 will directly impede of the use of the soil resource for primary production uses.

Federated Farmers acknowledges that electricity supply is vital to the economy, and that farmers also rely on electricity. In turn, it must also be acknowledged that electricity transmission activities occur on private land, and that electricity transmission can have an adverse effect on land use and farming.

Issue 10.1.4 (May 2011 version of the District Plan) recognises that *the development, operation, maintenance and upgrading of some Infrastructure and Network Utilities may have the potential to positively or adversely affect landscapes, streetscapes and other amenity values*, and likewise network utilities can also have a negative effect on existing land use. Transmission lines are an imposition on farms, and farmers regularly have to work their normal activities around lines. Fences, tracks, cropping and fertiliser spreading are all re-routed to cope with large structures in paddocks. Vehicles, machinery and people will gain access over farms and remain in paddocks for works during lambing or harvesting. Despite the disruption to their farms, farmers provide the land as a platform often without compensation and allow access onto their properties for maintenance activities.

Policy 16.2.2.5 of the District Plan (May 2011 version) states that *subdivision, use and development of rural land for purposes other than primary production and which have the potential to inhibit the efficient and lawful operation of existing or designated network utility operations should be avoided or minimised*. Federated Farmers considers that in order to be consistent with Policy 16.2.2.5 Table 10.3 should only seek to constrain activities in the rural zone that *are not* for primary production.

Transmission lines occur over productive rural land, and use of the land to transmit electricity should not limit the capability of the land to be used for primary production. Objective 16.2.1.1 seeks to protect *the efficient use and development of the rural land resource for primary production*, and Policy 16.2.2.1 seeks that *subdivision, use and development of the highly or moderately versatile rural land resource should occur in a way which retains its potential to be used for a range of productive rural purposes and which maximizes the likelihood of it actually being used for such purposes*. As currently proposed, Table 10.3 will not achieve the prioritisation of the use of the soil resource for primary production uses.

Buildings and Structures

Federated Farmers opposes the non-complying status of rural buildings and structures in Transmission Buffer Zone A, and the Restricted Discretionary status within Buffer Zone B. These activity statuses are overly restrictive and will unnecessarily constrain farming activities.

There is no defined Issue which identifies farm buildings as a current and genuine impediment to the efficient transmission of electricity that justifies such a rule. Federated Farmers asks if there has been

a problem with land owners wanting to build large-scale buildings close to transmission lines recently, and if there have been concerns around buildings shorting out lines.

The rule will constrain many farming activities which have no adverse effect on transmission lines due to the definition of “Building.” The definition of “Building” in the District Plan (May 2011 version) includes fences over 2m, and tanks over 1m. These are both activities that are vital to farming and may very well occur within the Buffer Zones without impacting on electricity transmission. Transmission lines will stretch across paddocks and deer farmers will expect to be able to have fencing around their entire paddock, they will not be able to farm deer if the fence crossing under the transmission line has to be shorter. Water tanks may need to be located on the crest of hills and this could be under a transmission line. Tanks may be accompanied by small pump sheds. These are all examples of buildings that are needed for farming, and would need resource consent despite posing no risk to security of electricity supply or safety.

10.5 Matters of Discretion for buildings and structures within the Transmission Buffer Zones need to relate to the adverse effect of the activity on the transmission lines. Location of the building is not a valid matter of discretion, however the location of a building and any subsequent adverse effects on the safe operation of transmission lines is more appropriate. The need for approval from the Network Operator is overstepping the boundaries of the RMA. The Network Utility operator does not have statutory functions in the RMA and is not an enforcer.

Federated Farmers submits that farm buildings, fences and tanks are exempt from the Rules (be) and (bf) in Table 10.3 and are consequently permitted within Transmission Buffer Zones.

Relief Sought:

- That rural buildings and structures are permitted within Transmission Buffer Zones; and
- That Matters of Discretion relate only to adverse effects of the proposed activity on the safe operation of transmission lines; and
- That the need for approval of the Network Operator is deleted from the Matters of Discretion.

Subdivision

Federated Farmers considers that the non-complying status of subdivision within Transmission Buffer Zone A and the Restricted Discretionary status within Zone B will potentially capture rural subdivision which has no threat to transmission interests.

Federated Farmers assumes that the rule is intended to address Issue 10.1.6 of the District Plan, in that subdivision close to existing transmission lines can create reverse sensitivity, however in large-scale rural subdivisions this will not be the case. Situations where a landowner seeks to subdivide a large farm into two medium farms using the transmission line as a practical boundary will be unnecessarily restricted, even though house sites will be located well away from the transmission line. This is very different to a multiple-lot subdivision close to a transmission line with small urban or lifestyle lot sizes where house sites are limited.

Section 10.5 Matters of Discretion for subdivision within the Transmission Buffer Zones need to relate to the adverse effect of the activity on the transmission lines. Location of house sites is not a valid

matter of discretion, however the location of house sites and any subsequent adverse effects on the safe operation of transmission lines is more appropriate. The need for approval from the Network Operator is overstepping the boundaries of the RMA. The Network Utility operator does not have statutory functions in the RMA and is not an enforcer.

Federated Farmers submits that rural subdivision that includes Transmission Buffer Zones only need adhere to Section 16.4.2 Subdivision Activity Performance Standards.

Relief Sought:

- That rural subdivision is exempt from Rules (bq) and (bh) in Table 10.3 and only the Rural Subdivision Performance Standards apply; and
- That Matters of Discretion relate only to adverse effects of the proposed activity on the safe operation of transmission lines; and
- That the need for approval of the Network Operator is deleted from the Matters of Discretion.

Earthworks

Federated Farmers opposes the non-complying status of earthworks in Rule (bj) in Table 10.3 because it will unnecessarily constrain many farming activities that have no adverse effect on transmission lines.

There is no defined Issue which identifies farm earthworks as a current and genuine impediment to the efficient transmission of electricity that justifies such a rule. Federated Farmers asks if there has been a problem with land owners wanting to develop industrial quarries close to transmission lines recently, and if there have been concerns around large-scale earthworks undermining towers.

While earthworks undertaken as part of agricultural cultivation are exempt from activity performance standards in Rule 10.4(t) this does not exclude other farming earthworks, like access tracks, and fence post holes which are about 1m deep. As transmission lines traverse over farm land, it will be inevitable that fences or farm tracks will cross underneath of lines, even fences running parallel to lines could be captured. These are activities that will not undermine the stability of towers.

Federated Farmers submits that all farming earthworks, including fencing and tracking as well as cultivation, are exempt from activity performance standards 10.4(t) and are permitted within Transmission Buffer Zones.

Relief Sought:

- That all farming earthworks are exempt from Rule (bi) and (bh) of Table 10.3 and Activity Performance Standards 10.4(t), and are permitted within Transmission Buffer Zones.

6 Provision in the proposed Plan Change:

Plan Change 8- Rural Yards

Summary of reasons for this submission:

Federated Farmers supports the reduction of the 30m setback in circumstances when additions or alterations are carried out on existing dwellings. This is a common-sense approach that gives resource users a level of flexibility around their dwellings, while recognising that adverse effects of an addition will be nil. Support is also given for the current rule that permits all other structures to be setback 5m minimum.

Support is given for the amendment to standard (e) in Rule 16.4.1(c) (i) which specifies that setbacks apply from dwellings on a title separate to that of the subject site. This provides effects based approach, as internal effects created upon the landowner from their own activities are not to the concern of Council.

Relief Sought:

- That additions and alterations to existing dwellings are exempted from the 30m setback in Rule 16.4.1(c)(i), and
- That setbacks are specified to be from existing dwellings that are located on a title separate to that of the subject site.

7 Provision in the proposed Plan Change:

Plan Change 9- Rural Zone 200m² Buildings

Summary of reasons for this submission:

Federated Farmers supports the deletion of the 200m² floor area limit for buildings that are associated with farming, production forestry conservation forestry and dwellings.

This recognises that the rural zone is the appropriate location for primary production activities, and that sometimes buildings are needed to carry out production.

Relief Sought:

- That buildings accessory to farming, production forestry conservation forestry and dwellings are permitted without a floor area limit.

8 Provision in the proposed Plan Change:

Plan Change 11- Ecological Features

Summary of reasons for this submission:

Rule 5.4.1(g) seems to be back-solving the issue of an out-dated schedule of ecological features that are no longer significant. Federated Farmers submits that where scheduled ecological features are found to no longer meet criteria for ecological significance, they should be removed from the District Plan.

The rule as proposed also places the burden of proof upon the resource user, despite the problem of the out-dated schedule being the Council's responsibility. A reliable and accurate schedule of ecological sites will enable resources to be directed where they will have the most positive effect on enhancing ecological value. The proposed rule will mean that resources are directed at proving that no ecological value exists.

Federated Farmers believes there is a better way to achieve the same out come that the proposed change suggests. Federated Farmers suggests not including a rule in the Plan which would ensure that a resource consent would not be required where a landowner can prove that there is no, nor has there ever been any significant ecological feature on the site.

Federated Farmers submits that amending the existing rule to allow council delete the ecological features that no longer meet the criteria would deliver the same outcome and also future proof those areas of land that do not meet the criteria so each new land use activity or new land owner does not face the same process repeatedly. This would save a lot of time and cost to land owners repeatedly proving the same block of land no longer contains a significant ecological feature.

Relief Sought:

- That where an ecological feature is found to have no ecological value it is deleted from the District Plan; and
- That proposed Rule 5.4.1 (g) is amended to read:
All activities that would otherwise be permitted where ~~evidence can be provided which shows that~~ the activity does not contain anything of ecological significance since 1994 and then that activity shall be permitted and the ecological features that no longer meet the criteria are deleted from the District Plan maps.

9 Provision in the proposed Plan Change:

Plan Change 12- Protection Lots for Community Benefit

Summary of reasons for this submission:

Federated Farmers supports the Council's provisions for transferable development rights when a significant feature of value to the community has been protected. This recognises and acknowledges that such features occur on private land, and that protection is a public good.

While Federated Farmers remains opposed to View Shafts, it is pleased to see that these are included in transferable development rights. Where the Council is willing to restrict land use on private land for the purpose of a community benefit, the reciprocal action is to provide a benefit for the land owner.

Relief Sought:

- That Council provides a benefit to the land owner where land use is restricted on private and for community benefit.

10 Provision in the proposed Plan Change:

Plan Change 13- Waihi Beach View Shaft

Summary of reasons for this submission:

Federated Farmers opposes view shafts. View shafts are unduly onerous on landowners and inappropriate for a number of reasons.

The Council is seeking to control inappropriate development of these spaces but the explanation of what is 'inappropriate' is concerning given that normal farm buildings and practices will be restricted, and in particular the Council has identified boundary planting as a "risk" to View Shaft 9 . These are entirely appropriate activities given that many of these areas are part of a dynamic working rural landscape which does change over time.

Existing landowners will not accept limitations on the operation of their lawfully established rural activities for amenity purposes. That approach fails to recognise that working landscapes are subject to human activity and change, they are not static landscapes that should be kept in perpetuity. The rural landscape has been shaped by agricultural activities over several generations, and will continue to be so. Land use decisions such as planting or harvesting timber forests, seasonal cropping, change of use to pasture or into permanent crops, and subdivision can provide different amenity values.

Subdivision rules and rural zones are in place to help ensure that the rural landscape remain rural in character. It is unnecessary to place additional restrictions on rural sites for amenity purposes.

Relief Sought:

- That View Shaft 9 is deleted.

11 Provision in the proposed Plan Change:

Plan Change 16- Landscapes: Rule 6.4.3.4

Summary of reasons for this submission:

Federated Farmers opposes the restricted discretionary status for specified activities within Viewshafts in Rule 6.4.3.4. These are activities that are appropriate for the rural zone, and may contradict other legislative provisions.

Restricted discretionary status for fences within Viewshafts is overly constricting with little benefit, as fences do not pose a high visual effect. Post and wire fencing is a mainstay of farming, and even post and board fencing is low profile and visually integrative into the rural landscape without disrupting the view.

The rule as written does not allow for replacements of existing activities. Fences must be kept in good repair or may need to be replaced otherwise livestock may escape onto the road. Production forests may need to be replanted because they are under the Emissions Trading Scheme.

Artificial crop protection as a restricted discretionary activity also has the potential to sweep up all sorts of activities that pose no risk to views, but will be essential to primary production. Side-netting to protect grapes from birds, frost cloth to protect seedlings, and cropping cloches for vegetables or strawberries would all be considered “artificial crop protection” under the definition.

Likewise all Earthworks as a restricted discretionary activity also will apply to even minor activities that will have no effect on views. Earthworks as defined in the Plan would capture clean fill around gates and troughs to reduce mud, laying water pipes to troughs, even fence post holes may be captured. These are all activities that Council would use valuable resources and staff time on processing resource consent applications for no benefit.

Planting of vegetation could mean that re-sowing pasture or seasonal cropping is considered a restricted discretionary activity. These are activities that are appropriate for the rural zone. Federated Farmers reminds the Council that the purpose of the rural zone is primary production, and not simply a scenic outlook.

Rule 6.4.3.4 is too vague and unnecessarily regulates activities that will have no adverse effect on views, and will not achieve sustainable management.

Relief Sought:

- That Rule 6.4.3.4 is deleted, and
- That buildings and structures, fences and walls, crop protection, earthworks, planting of vegetation, and forestry are permitted activities within Viewshafts.

12 Provision in the proposed Plan Change:

Plan Change 19 - Transportation

Summary of reasons for this submission:

Federated Farmers supports the change of activity status from restricted discretionary to controlled in Rule 4B.3.1 for new crossings onto strategic roads. Most strategic roads are bordered on both sides by rural land, and access onto these roads is needed for agricultural production and movement of goods. Controlled status recognises this need, while providing for safety concerns.

However increasing the use of existing crossings is ambiguous and needs further definition. Federated Farmers assumes that increasing the use of existing crossings refers to subdivision occurring and new properties are using the existing crossing. This needs to be clarified so increasing use does not refer to the number of traffic movements relating to agriculture which can change if a new land owner adopts a different form of production, or temporary variations.

Relief Sought:

- That new access onto strategic roads is a controlled activity, and
- That increasing use of existing crossings is further defined as new properties being created and using the crossing, and not increasing agricultural vehicle movements.

13 Provision in the proposed Plan Change:

Plan Change 23 – Earthworks

Summary of reasons for this submission:

Federated Farmers strongly supports the exclusion of agricultural and horticultural earthworks from the definition of Earthworks and subsequent exclusion from regulation. This is a common-sense rule that acknowledges how important agriculture and horticulture is to the Western Bays district, and that earthworks are a vital part of primary production. This will mean that farmers and orchardists are permitted to carry on their normal activities and that the Council need not waste time and resources processing consents that have little benefit. Federated Farmers congratulates the Council on this enabling, forward-thinking and practical provision.

Federated Farmers also strongly supports Rule 4A.5 which provides for earthworks which are not regulated elsewhere in the District Plan as permitted. This is consistent with the enabling provision of the RMA and will allow for new technologies and innovative practice to develop. Federated Farmers again congratulates the Council on this enabling, forward-thinking and practical provision.

Council recommends that where the District Plan remains silent or where earthworks are not being undertaken in a natural hazard, landscape feature, ecological feature, or a heritage site then they should be permitted. The reason behind this is that a resource consent will be required from the

Regional Council once the earthworks exceed 5000m³, which is the level that the Regional Water and Land Plan has determined that the earthworks will likely cause an adverse effect.

Relief Sought:

- That agricultural and horticultural earthworks are exempt from the definition of “Earthworks” and subsequently become permitted; and
- That Rule 4A.5 which provides a permitted status for earthworks otherwise not provided for in the District Plan is retained.

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 Western Bay of Plenty District Council for considering our submission to Plan Changes 1- 27.

