

COMMENT

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To: The Chief Executive Officer
Whakatane District Council
Private Bag 1002
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New Zealand

Comments on: **Draft Whakatane District Plan 2011**

Comments by: Federated Farmers of New Zealand

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1. INTRODUCTION

- 1.1** Federated Farmers of New Zealand appreciates the opportunity to provide comments on the Draft Whakatane District Plan for the Whakatane District.
- 1.2** Agriculture represents a significant industry within the Whakatane 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. The intensive use of land, managed properly, can have minimal impact on the environment and may include positive impacts such as riparian planting.
- 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 Whakatane 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 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 Chapter 1 – Section 1.6 Zones

Federated Farmers Acknowledges the continuation of the Rural Zones in the draft District Plan and agrees that the rural community has unique attributes that require consideration separately from other parts of the community.

However there are a few issues with what that the draft plan proposes in the rural zones. Firstly the creation of the new Ohiwa Rural Zone has placed land use limitations on the existing legitimately established rural farming business. Under rule 15.4.1 it will be harder to get building consents and in some cases consents may not be granted. Also in the Rural Foothills Zone the establishment of “Significant Amenity Landscapes” and “Ridgelines”.

There is a proposal in the plan to create a rural 3 zone for Ohiwa Harbour that will be separated out and have its own rules. According to the plan the skyline must be maintained, so houses cannot protrude above this line and must blend in to the landscape by complying to the proposed colour scheme. Federated Farmer questions whether this is appropriate in a rural zone where many farm buildings already protrude above ridgelines and have done for decades.

Relief sought:

- a) Ensure the activity status does not impede existing lawfully established rural businesses from their daily business operations.

3.2 Chapter 2 – Activity Status, Information Requirements and Criteria for Resource Consents

The Activity Status section 2.2 on page P35 lists the activity status for each zone in the district. Federated Farmers is concerned that the activity status levels of dwellings in the Rural Ohiwa and Rural Coastal zones are too restrictive. Federated Farmers feel this will be limiting for farming businesses in the future and essentially become a barrier for farming business to reach their full productive potential. Firstly with economies of scale farms are getting larger and as they do they require more staff and more housing for those staff. A 300 – 400 cow dairy farm requires 3 – 4 full time people to run the farm day to day. That also transpires into four houses for these families to live in on farm. Also as these farms get bigger many of the farming families grow with the farm. Often parents wish to stay living on the land as they hand over to the next generations and succession must be planned and allowed for in the district plan. Frequently there are three generations farming the land and this also develops a strong community over time. Federated Farmers believe the District Plan should enable these businesses to grow and keep contributing to their communities.

Also the Activity Status of activity 26b for “Intensive Farming” is too strong and should be reduced to controlled. A discretionary activity status means the consent application can be turned down. Businesses need certainty to be able to continue to grow and this activity status can potentially limit business growth. There has been zero growth in our region and if the consent rules are made too restrictive then our region may face negative growth.

Relief sought:

- a) Amend activity status to controlled for the “Rural Ohiwa Zone” activities 1, 2, 3 and 4 on page 35.
- b) Amend Activity Status 26b on page 39 from Discretionary to Controlled.

3.3 Chapter 6 – Rural

The rural chapter discusses in the objective the need to protect the productive capacity of the rural environment. Federated Farmers agrees that the productive capacity does need to be maintained in rural Whakatane but the term “protect” implies the current uses are damaging. This is simply not the case and “maintain” allows for the use of the resource without degradation.

Likewise the term “enhance” implies the need to change from the current use to add to visual character. The rural environment has always been a changing environment. Any change of day to day farming practices that is still farming should be able to be adopted on farm without a measuring stick being applied to it. The plan needs to allow for future innovations that maintain rural character therefore enhance should not be used in this context.

Several rules on page 112 have been made harder in this draft. Rule 6.3.3.1 raises the set back from 10 metres to 15 metres from yards. There is no reasoning offered for this and Federated Farmers believes this change is not necessary.

Rule 6.3.4 Site Coverage sets a 1000m² limit on hardstand without considering how this dovetails with current best practice industry documents and herd sizes. Using DairyNZ's hardstand density for hardstands for dairy cows of 6m² per cow this would only cater for a 166 cow herd. Many herds today are over 400. There are also potential issues where there are multiple titles in on farm and the farm's ability to build new structures if most of the existing structure were on the same land title. This rule could pose significant issues for the horticultural hothouse industry where most of their lot is covered.

Rule 6.3.5 Accessory Buildings for Habitation states "no accessory buildings for habitation shall exceed 50m² in total floor area" This rule was previously 75m². Federated Farmers believes this change is redundant and not required.

Rural Coastal Zone:

The Rural Zone covers the coastline from Whakatane to Matata. Federated Farmers is concerned with the more severe activity status regime on page 35. This will place an unfair burden on existing land owners within the coastal zone that currently have legitimate legally established rural activities as their business. It will also devalue land in the future as the new limitations may not allow the land owner to carry out the activities the land was purchased for..

The minimal subdivision lot size has gone up from 2 hectares in the operative Whakatane District Plan to 4 hectares in the proposed Whakatane District Plan. Federated Farmers does not support this change and recommends it remains at 2 hectares.

Rural Foothills Zone:

There are also a number of changes in the Rural Foothills Zone that also have impacts on the existing day to day farming businesses in the zone. Issues around Landscape, subdivision, Significant Ridgelines, SAL's and NOFL's are discussed later in these comments.

Rural Ohiwa Zone:

Federate Farmers supports the creation to the new "Rural Ohiwa Zone". However we are concerned it will impose new land use restrictions upon legitimate legally established farming businesses that have operated in that same location for decades. The activity status's in the table on page 35 of the Rural Ohiwa Zone for dwelling construction are more severe and require consents in nearly every circumstance even for one dwelling.

Relief sought:

- a) Replace all references in all rural zones to “protect” and “enhance” with the term “maintain’.
- b) Amend rule 6.3.3.1 back to 10m².
- c) Amend rule 6.3.4 to a more considered number that reflects on farm systems day to day hardstand needs more realistically. 1000m² is far too small and 5000m² is more realistic.
- d) Amend rule 6.3.5 back to 75m².
- e) Amend the Rural Coastal Zone activity status to not limit rural every day activities and have controlled as the highest activity status.
- f) Amend the Rural Foothills Zone to remove “Ridgelines” and “Significant Amenity Landscapes”.

3.4 Chapter 9 – General Provisions

Quarrying p126, rule 9.3.2.1 2000m³ not enough – should be 5000m³ like regional rules. 2000m³ is 140 x 10 tonne truck loads of metal.

Even though there is no change to the odour rules section 9.3.6 should enable famers to be ensured that their ability to spread solid waste is not compromised in this proposed plan.

Airport - P131 aircraft operating hours 7am – 10pm needs to be changed to 5am start. Fertiliser planes often take-off earlier than 7am. Also issue on “future proofing” the run way on page 176 & map 102B. This proposes to impose building restrictions on the land ‘tagged’ for future run way lengthening.

Relief sought:

- a) Amend rule 9.3.2.1 from 2000m³ to 5000m³.
- b) Amend rule 9.3.4.1 (4) to delete 10pm – 7am and use a more effective measure.
- c) Add to section 9.3.6.1:
 - e Rural activities that spread solid waste onto land (or words to that effect).*

3.5 Chapter 10 – Subdivision and Esplanade Reserves

Primary production activities such as dairying and dry stock farming make significant contributions to the economic, social and cultural well-being of the Whakatane 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 Edgumbe.

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 Whakatane 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 an Expected” in the definitions and throughout the document in regards to existing rural farming activities.

3.6 Chapter 12 - 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 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. Section 12.3.5.2 needs to be reworded to limit council’s ability to recoup unplanned costs due to the Asset Management Plan or Annual Plan failing to predict the expected location developments.

Local Government Act clearly states that ‘Development Contributions’ can only be used for infrastructural requirements. Section x 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) Ensure where financial contributions are used in relation to esplanade reserves on private land that rural land owners existing land rights are not compromised.
- b) Reword section 12.3.5.2 so developers are not faced with exorbitant costs due to the Asset Management Plan or Annual Plans omissions.

3.7 Chapter 13 - Indigenous Biodiversity

This Indigenous Biodiversity chapter is new in this plan. And although Federated Farmers has been involved in negotiations for years with the working group we still have some real concerns over this draft chapter and the limitations it will place on existing lawfully established farming operations.

The rules around clearance of indigenous are very restrictive and will lower the retail value this privately owned land for the good of the community. The community needs to provide incentives that are non-regulatory that benefit the land owner or subsidise them to implement change in the way they can use their land that has been scheduled in this draft plan.

In section 13.3 on page 192 in the Activity status table rules 6, 7, 8, 9, 10 and 11 concern Federated Farmers. All of these three activity status should be controlled. These sorts of restrictions will have a negative effect on land values as these limitations on land use will stifle development.

Relief sought

- a) Amend Section 13.3 rule 4 harvesting Manuka and Kanuka for firewood from 10m² to 20m².
- b) Amend Section 13.3 Activity Status table rules 6 & 7 to controlled and better reflect the scale of each farming situation as one size does not fit all. 5000m² is not enough in some instances.
- c) Amend Section 13.3 Activity Status table rule 8 to controlled.
- c) Amend Section 13.3 Activity Status table rule 9 to controlled.
- d) Amend Section 13.3 Activity Status table rule 10 to controlled.
- e) Amend Section 13.3 Activity Status table rule 11 to permitted.
- f) Merge schedules A and B in to one schedule.
- g) Delete the tree schedule.
- h) Add specific permitted activities on maintaining farm drains & waterways, low lying land & next to wetlands

3.8 Chapter 15 – Landscape and Coastal Environment

In the objectives and policies on page 200 states the need to further restrict land uses and activities within some zones. Federated Farmers does not agree with this presumption as there has been zero growth in the district. This approach will merely make it harder for existing land owners to use their land in the way they currently do in the future.

The new provisions in section 15.2 Objective LS1, policy 2 for “Significant Amenity Landscapes” and Outstanding Natural Feature Landscapes” imposes extensive restrictions of land use on existing land owners and essentially devalues their land. Federated Farmers believes this level of restriction is unnecessary.

In section 15.2 Objective LS1 Policy 3 a states “Protect and enhance the natural and physical process which contribute to its natural character and landscape values”. As the natural character currently is

rural farming Federated Farmers believes this policy is simply unnecessary. Also using the term protect implies they is a threat. Also if you proactively enhance an environment then it is no longer a natural process.

In section 15.3 Federated Farmers believes the activity status 2 for production forestry in all four zones is a far too restrictive new provision. The new activity status and the new level of landscape "Significant Amenity Landscapes" (SAL, map 508A) places undue burden on land owners that have plantation forestry and will have a large impact on the cost of day to day running of their business.

Their production will drop with less land planted and planting costs will go up per hectare. This will essentially create large part of land near ridge lines that will not be able to be planted in plantation forestry. What will land owners do with this land? It will be exposed and end up a weed problem.

Federated Farmers feel that the council should not have control over the amount of land that should be planted into trees. Land owners should plant to contour of land not" ridgelines". This will be a huge cost to the land user. In all four zones plantation forestry should be a permitted activity.

On age 201, objective LS2, Policy 3 limits buildings & structures on or below ridgelines and this is of significant concern to Federated Farmers. This means that people will be required to dig into hill sides and suffer large expenses as engineers will have to be brought in to certify the excavations. Also even after the house is built there is the possibility of a landslip.

Again what is proposed in rule 15.4.1 on page 203 will have a large impact on existing lawfully established rural activities. SAL's and Outstanding Natural Feature Landscapes" (ONFL's) building consents and location of structures imposes large restrictions of land use on existing land owners and essentially devalues their land. Federated Farmers believes this is unnecessary.

In section 15.4.2 the colour scheme for amenity landscapes is very limiting and the colours scheme proposed tends to absorb heat instead of reflecting it. Council needs to consult more with effected land owners over this issue.

Section 15.5.2 on page 203 outlines what council will have control over in regards to Plantation Forestry and earth works within a SAL. Federated Farmers believes this is far too restrictive and unnecessary. Land owner should have control over how they use their land. Plantation forestry is a crop and should be treated as such and be permitted like other crops like maize.

Relief sought

- a) Delete policy 15.2.2
- b) Delete policy 15.2 Policy 3 a & b.
- c) Delete Section 15.2, Objective LS2, Policy 3:

~~Buildings and structures on ridge tops and spurs shall be avoided and where possible buildings and structures shall use the hills or spurs as their backdrop to reduce the visual prominence of development in the open green rural ones.~~

- d) Amend activity status Rule 15.3.2 to permitted in all 4 zones in table (Rural Ohiwa, Rural Coastal, ONFL, SAL)
- e) Amend Rule 15.3 Activity status 2 for production forestry
- f) Delete Rule 15.4.1
- g) Review 15.4.2 the proposed colour scheme restrictions for the amenity landscapes.
- h) Delete Rule 15.5.2
- i) Add permitted activity provision to maintain drains on low lying land & next to wetlands.

3.9 Chapter 16 – 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.

In the Water Supply section 16.3.2.2 (1) on page 212 the minimum on-site storage for fire fighting purposes has gone up from 5,000 litres in the operative Whakatane District plan to 45,000 litres in the proposed Whakatane District Plan.

This rule is too onerous and needs to revert back to current requirement of 5,000 litres. While this is a commendable requirement, considerations have to be made for the economic relationship between water storage/supply, fire risk, fire fighting capability and alternative water supply.

Currently it costs about \$4,500 to buy a 25-30k litre tank plus \$500 for fitting and fixtures to the required rule. A typical rural property, reliant of rain water will install between 20-60k litres storage. In a drought event this will last 60-90 days for normal house hold needs. Simply at a time of high risk there is unlikely to be sufficient water available in the domestic supply. To have

45,000litres of dedicated storage would require a significant additional investment, about \$10,000 by the land owner.

In the event of a fire, there is unlikely to be pumping capacity on site for effective fire control. Therefore the time for a fire appliance to arrive dictates the degree of destruction of the building. In a rural situation, a fire appliance will call for additional water supply, say Fonterra or rural fire tankers, about 10,000 litres, at a time. A backup water supply will be 15-20 minutes behind the first response appliance who will be carrying about 3-500 litres of their own tank capacity.

This ultimately becomes a trade of between owners and insurance companies or self insurance, not between owners and the district council. If the fire insurance premium increases due to lack of water supply then owners can choose to install an on site supply. Council cannot require such high quantity to be available in anticipation of a potential disaster. Land owner should retain the right to choose how they approach fire risk.

In the urban situation where houses are part of a reticulated system the cost of capacity is distributed over the houses over 10 years and is significantly more affordable. The plan cannot discriminate between reticulated and non-reticulated properties.

If one assumes that 1:100 rural building will catch fire in a 10 year period, this rule will require \$10 million [100 houses x 10 years x \$10,000] invested in storage vs. the potential loss of one \$300k house every 10 years. It does not stack up for every remote house to have their own fire water storage.

Federated Farmers therefore believes the existing 5,000 litres of on-site storage is sufficient and should be left the same as the operative Whakatane District Plan.

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) Amend Section 16.3.2.2 (1) from 45,000 litres back to 5000 litres to read:

1. 5,000 litres minimum on site water storage.

3.10 Chapter 19 – Definitions

Federated Farmers believes robust definitions are the key to a successful operative plan. Definitions need to be clear and not able to be interpreted to limit activities they not intended for.

The definition of intensive farming on page 249 is open for interpretation and Federated Farmers this could create issues in the future. The use of the term “short periods of time” creates ambiguity and we would like to offer an alternative wording that clarifies and captures the housed intensive purpose of the definition.

Relief sought

a) Amend the definition of intensive farming to as follows:

“Intensive farming means the commercial raising and keeping of livestock, plants or fungi which have or require throughout their lifecycle:

(i) No dependency whatsoever on the qualities of the soils naturally occurring on the site; or

(ii) Buildings for the uninterrupted housing and growth of livestock or fungi”.

SUBMISSION ENDS