

## Waitomo District Council Proposed District Plan

Hearing Speaking Notes: Elvise van der Leden, Regional Conservation Manager (Taranaki/Waikato)

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Tēnā koutou Commissioners and others

1. My name is Elvise van der Leden. I am the Regional Conservation Manager for Taranaki and Waikato for Forest & Bird.
2. The main purpose of Forest & Bird is the preservation and protection of the indigenous flora and fauna and the natural features of New Zealand: we are 'A Voice for Nature'. The Waitomo area contains an incredible natural environment for our precious indigenous plants and species, but let's be frank, if the District Plan does not protect them they are at real risk.
3. Forest & Bird made a submission (S47) on the Waitomo Proposed District Plan. Our submission supported, sought amendments to, and opposed a number of proposed provisions in the following topics:
  - a. How the Plan Works
  - b. Interpretation
  - c. National Direction Instruments
  - d. Strategic Direction
  - e. Energy, Infrastructure and Transport
  - f. Hazards and Risks
  - g. Historical and Cultural Values
  - h. Natural Environment Values
  - i. Subdivision
  - j. General District-Wide Matters
  - k. Area-Specific Matters
  - l. Zones
  - m. Schedules
  - n. Maps

For the above topics not covered in these notes, we continue to rely upon and seek the relief sought in our submission. My speaking notes focus on the ECO chapter and our submission points and the section 42A recommendations on it. This is to draw the Panel to the points where Forest & Bird have concerns, our position of the section 42A recommendation, and the reasons why.

4. The overall outcome our submission is seeking is the Proposed District Plan and its provisions result in:

- a. Preservation of natural character in the coastal environment, wetlands, lakes and rivers and their margins
  - b. Protection of areas of outstanding natural features and landscapes
  - c. Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
  - d. Maintenance and improvement of indigenous biodiversity in the district
- 5. Forest & Bird have reviewed the officer's section 42A report and recommendations on the ECO chapter. Thank you to the officer who has carefully considered and responded to a large number of submission points.
- 6. In the section 42A report the officer recommends declining, for the most part, the relief our submission seeks. While we agree with some of the recommendations, there are some recommendations we are particularly concerned about. The table below is intended to draw the Hearings Panel to those matters.

Provision	
<p>Chapter 9 Definitions</p> <p>Conservation activities</p> <p>New definition for vegetation clearance</p>	<p>For the conservation activities definition, Forest &amp; Bird support the inclusion of animal species and removal of reference to the regional pest management plan as recommended. We still hold the same concerns as submitted, which are:</p> <ul style="list-style-type: none"> <li>• this definition may be used or interpreted as a reason to remove indigenous vegetation or the habitat indigenous species – particularly (e), (g) and (h), which Forest &amp; Bird struggle to see how they contribute to conservation activity. Removing establishment and upgrading from (e) would go some way to addressing this concern.</li> <li>• The scale and potential for adverse effects is not clear. It needs to be because the activities captured by this definition would be a permitted activity under ECO-R10.</li> <li>• It is not clear what “otherwise authorised by the Waikato Regional Council” means nor should a permitted activity status automatically be included.</li> </ul> <p>Forest &amp; Bird are particularly concerned about the officer’s recommendation to not include a definition for vegetation clearance. Quite simply, there are rules for vegetation clearance. It should be defined so it is clear what is covered and not by those rules. Not defining vegetation clearance may have the effect of enabling methods as a permitted activity that may have adverse effects on indigenous vegetation.</p>
<p>ECO Overview</p>	<p>Forest &amp; Bird sought many amendments to the overview chapter. One of which was explaining that areas meeting the significance criteria are identified in Schedule 6 and on the planning maps, and that further areas may be identified on a case-by-case basis through resource consent processes. This has been rejected. Forest &amp; Bird maintain this amendment is an important signal to plan users; many are likely to not appreciate this, and it is helpful to establish this up front.</p> <p>Forest &amp; Bird also sought a signal in the overview text around adverse effects of other vegetation clearance being addressed by provisions in the NC, CE and NLF chapters. We still seek this as signposts in the plan to where other rules apply will be important for protecting these areas.</p> <p>We also sought an amendment signalling that Horizons One Plan and Waitomo District Plan both contain provisions managing the adverse effects on indigenous vegetation and biodiversity. This was rejected, which is concerning. Our submission contains the reasons why this amendment is important, but in essence the Council still has responsibilities under s6 when exercising its other functions and powers along with Horizons Regional Council.</p>

ECO objectives	<p>Forest &amp; Bird opposed a number of the ECO objectives on the basis that they did not achieve adequate preservation, protection, maintenance and enhancement. For the most part Forest &amp; Bird accept the section 42A responses to our submission but there are some that we are still concerned about.</p> <p>Forest &amp; Bird still oppose ECO-O1. The objective as drafted has the effect of protecting only ‘where appropriate’ and ‘indigenous biodiversity in Significant Natural Areas’.</p> <p>Forest &amp; Bird still oppose the ECO-O4. It is important that maintain, enhance and restoration are outcomes sought by the plan. The use of ‘or’ in effect prevents this.</p> <p>We still seek an amendment to ECO-O5. This wording does not align with Policy 11 of the New Zealand Coastal Policy Statement which requires indigenous biological diversity in the coastal environment to be protected. Not just ‘areas’.</p>
ECO Policies	<p>Forest &amp; Bird sought amendments to several policies too or opposed them altogether. Having read the section 42A:</p> <p>Forest &amp; Bird remain concerned that ECO-P1 is not clear on:</p> <ul style="list-style-type: none"> <li>• The distinction between loss or degradation and other adverse effects. If a more restrictive approach is intended to loss and degradation that is lost through the subsequent clauses of the policy.</li> <li>• How “unavoidable” adverse effects would be determined</li> </ul> <p>And as a result of the above, we are concerned about whether protection would be achieved. We wish to draw the panel to the alternative drafting provided in our submission for this policy, which we feel provides greater direction on these matters.</p> <p>We still oppose ECO-P2 for the reasons set out in our submission. Primarily because making a distinction in the level of protection between ‘locally significant natural areas’ and ‘internationally, nationally or regionally significant’ is not appropriate nor in line with the WRPS.</p> <p>As far as we can tell, the section 42A report does not contain any assessment of our submission on ECO-P3. Forest &amp; Bird continue to find it difficult to understand how indigenous biodiversity can be protected or enhanced through indigenous vegetation removal in a significant natural area. The same goes for ECO-P9. We cannot find reference in the officer’s section 42A report. Forest &amp; Bird remain concerned about</p>

	<p>the potential effects of forestry seeds travelling into the SNAs and seek the amendment we sought in our submission to protect SNAs in line with section 6.</p> <p>Forest &amp; Bird maintain climate change factors need to be included in ECO-P5 for the reasons set out in our submission. The NZCPS policies 3(2) will be relevant to the Panel when considering this along with the other protection directions in the NZCPS and WRC regional plan. Similarly, On P11.5 Forest &amp; Bird wish to draw the panel to the intent of our submission on this matter. The amendment we proposed was to recognise that other impacts aside from sea level rise should be considered to protect indigenous flora and fauna in the coastal environment. If the policy remains as notified, this may be missed by those interpreting the policy in consent processes.</p> <p>Forest &amp; Bird remain concerned with ECO-P6, which is recommended to remain unchanged. This policy continues to consider matters that the council should be encouraging outside of consent processes. These matters would be better addressed in an objective or policy that is not specific to consent applications and covers outcomes sought in SNA's.</p> <p>Forest &amp; Bird still hold concerns with the ECO-P8 too, which will remain as drafted and may have the effect of not restricting indigenous vegetation clearance. There should be controls on indigenous vegetation clearance with respect to other forestry and woodlots.</p> <p>On ECO-P11 Forest &amp; Bird disagree with the officer's recommendation on P11.3. The term "enhancement" is a term synonymous with offset and providing this as an alternative to 'maintaining' could result in degradation occurring in some locations with enhancement in others. The term "improving" better captures the intent of the policy. This same concern and position applies to ECO-P12.</p> <p>Forest &amp; Bird are concerned about the recommendation to reject our submission to insert recognition of the role exotic vegetation and pasture provide for significant habitat for breeding, roosting, nesting and/or feeding into ECO-P13. It is well documented that some of our indigenous fauna use exotic vegetation and pasture for these purposes. We ask the panel to seek advice from council's ecologist on this before the section 42A officer's recommendation is accepted.</p> <p>Finally, our submission sought provision for protection of bat habitats including their corridors, and corridors of other highly mobile indigenous species. This was rejected as the regional council has not identified the areas.</p>
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	<p>Forest and Bird accept that overlays cannot be applied at this stage, but that objectives and policies should be drafted and inserted. It is difficult to see how the plan change has given effect to the NPS-IB if this does not occur as an interim measure whilst the regional councils identify the areas.</p>
ECO Rules	<p>Finally on the ECO rules, Forest &amp; Bird sought many changes. There are several rules we maintain should be amended and a few rules we think should be added:</p> <p>Forest &amp; Bird maintain that roads should not be exempt from ECO-Table 1 as roads will inevitably lead to loss.</p> <p>On ECO-R1 and ECO-R2, Forest &amp; Bird remain concerned about permitting vegetation clearance in the name of instruments and organisations created under other legislation. This is because these instruments and organisations operate for different purposes than s6 of the RMA. The Council, for example, could lead clearance in the name of other responsibilities under the LGA 2002 such as for the purposes of parks and flood management. All without considering Council's section 6 obligations to preserve and protect indigenous vegetation.</p> <p>On vegetation clearance, our submission included a request for a new ECO rule around setbacks from waterbodies. This was rejected as it is provided for in the NC chapter. Forest &amp; Bird still seek a setback rule in the ECO chapter so there is no risk of this NC being missed.</p> <p>On ECO-R4 Forest &amp; Bird are still unclear why a new fence for stock exclusion would go through an SNA. The inclusion of relocating a fence is not appropriate and could result in cumulative loss. If it is to be provided for it should be limited to "lawfully established". Further 2m for fences is too much and this should be limited to 1.5m.</p> <p>Forest &amp; Bird are concerned about ECO-R7. We maintain that clearance for fire risk is not an emergency and should be considered through consent process to ensure the SNA is protected. Further, the Fire and Emergency Act 2017 does not give effect to s6 of the RMA.</p> <p>Forest &amp; Bird remain concerned about ECO-R9 as it is not clear why or to what extent pest management activities would need to include the clearance of indigenous vegetation. Without knowing the extent it seems unlikely to be appropriate as a permitted activity within an SNA as it could lead to significant adverse effects. For example, Kauri dieback needs careful management that cannot adequately be addressed as a permitted activity, but would be permitted through this rule.</p>

	<p>On ECO-R11 Forest &amp; Bird accepts the section 42A officer's position regarding the activity status however It is still difficult to understand why these activities are appropriate and should be permitted to clear 150m<sup>2</sup> of vegetation. For that reason, Forest &amp; Bird still opposes this ECO-R11.</p> <p>On ECO-R12 Forest &amp; Bird continue to oppose this activity as a permitted activity. The activity should be subject to consent so Council can ensure there are no other suitable sites for the proposed activity rather than the person developing the small-scale renewable energy generation who has a vested interest in seeing the generation activity occur.</p> <p>On ECO-R13 which permits removal of manuka or kanuka we still oppose this rule as it does not meet Council's section 6 obligations. It is difficult to understand how the rule protects indigenous vegetation n enabling these activities. If the Panel were of the mind to relook at this provision, Forest &amp; Bird supports the Department of Conservation's amendment</p> <p>For ECO-R14, Forest &amp; Bird accept the section 42A officer's reasoning for this activity status however it is still difficult to understand how the rule protects indigenous vegetation in enabling these activities.</p> <p>For continuous cover forestry and/or sustainable forest management/harvesting (ECO-R15), Forest and Bird maintain that these activities are inappropriate for SNAs and should be a non-complying activity.</p> <p>On the default rule, ECO-R16, Forest &amp; Bird still maintain that the rule should be a non-complying activity. This plan change has assumably anticipated activities provided for and anticipated in the SNA so the default activity status should be for a non-complying activity. Any other activity should have to pass the s104D gateway test.</p> <p>Our submission on ECO-R17, as far as we can tell was not considered in the section 42A report. We still maintain that plantation forestry should be a prohibited activity given the risks of locating plantation forestry in these sensitive areas.</p> <p>Finally, we sought a new ECO rule making mineral and quarrying activities a prohibited activity. These activities are not appropriate in SNAs. Forest &amp; Bird still seek this despite the officer's recommendation.</p>
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Thank you. I am happy to answer any questions you may have relating to our submission or after my speaking to it.

Dated xx November 2024

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