

**BEFORE THE HEARING PANEL**

**IN THE MATTER OF** the Resource Management Act 1991 (the Act)

**AND**

**IN THE MATTER OF** submissions on (proposed) Te Tai o Poutini Plan – a Combined District Plan for the West Coast under Part 4 of Schedule 1 of the Act

**AND**

**IN THE MATTER OF** The report on the topic of *Ecosystems and Biodiversity* pursuant to Section 42A of the Act on behalf of Tai o Poutini Plan Committee for the TTPP Hearings Commissioners

**BETWEEN**

**WEST COAST REGIONAL COUNCIL  
BULLER DISTRICT COUNCIL  
GREY DISTRICT COUNCIL  
WESTLAND DISTRICT COUNCIL**

**AND**

**WEST COAST FEDERATED FARMERS**

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**STATEMENT OF EVIDENCE OF ELEANOR LINSKOTT ON BEHALF OF WEST COAST  
FEDERATED FARMERS**

**7 August 2024**

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**FEDERATED  
FARMERS  
OF NEW ZEALAND**

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## INTRODUCTION

1. My full name is Eleanor Linscott. I am employed as Regional Policy Manager - Southern by Federated Farmers of New Zealand (Inc). Federated Farmers of New Zealand is an organisation funded from voluntary membership to represent rural and farming businesses throughout New Zealand.
2. I am presenting evidence on aspects of the Proposed Te Tai o Poutini Plan (TTPP) on behalf of West Coast Federated Farmers. West Coast Federated Farmers is a branch of Federated Farmers of New Zealand (Inc).

## SCOPE OF EVIDENCE

3. I address aspects of the following report prepared under Section 42A ('Section 42A report') of the Resource Management Act 1991 ('the Act') on the Te Tai o Poutini Plan Committee:
  - Report by Lois Easton titled Te Tai o Poutini Plan Section 42A Officer's Report Ecosystems and Biodiversity
4. Any omission to specifically respond to matters contained in the 42A report should not be interpreted as agreement with such matters. My responses are set out below under the Matters identified in Ms Easton's report.
5. I have read the following documents:
  - The hearing report and appendices pursuant to section 42A of the Act mentioned above
  - The relevant sections of proposed Te Tai o Poutini Plan
  - West Coast Federated Farmers Submission on Te Tai o Poutini Plan<sup>1</sup>
  - West Coast Federated Farmers Further Submission on Te Tai o Poutini Plan<sup>2</sup>

## RESPONSE TO SECTION 42A REPORT

6. Below I comment on specific matters (titled in accordance with the 42A report)
  - Definitions

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<sup>1</sup> [Submission-524-Federated-Farmers-of-New-Zealand.pdf \(tpp.nz\)](#)

<sup>2</sup> [Further Submission 103 - West Coast Federated Farmers.pdf \(tpp.nz\)](#)

- Ecosystems and Indigenous Biodiversity Chapter Overview
- Policy ECO – P1 SNA Identification
- Policy ECO – P2 Activities in SNAs
- Policy ECO – P6 Assessment of Resource Consents – Activities to Avoid
- Policy ECO – P9 Offsetting and Compensation
- New Rule ECO – R1B Indigenous Vegetation Clearance Within a SNA
- Rule ECO – R1 Indigenous vegetation clearance and disturbance within the Buller and Westland Districts and outside of the coastal environment
- Rule ECO – R1A Indigenous vegetation clearance and disturbance within the Grey District and outside of the coastal environment
- ECO – R2 Indigenous Vegetation Clearance in the Coastal Environment
- Rule SUB – R7/ ECO – R4 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed
- Rule SUB – R9/ ECO R6 Subdivision of Land to create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed (not meeting Rule SUB – R7)
- Rule ECO – R5 Indigenous Vegetation Clearance not a Permitted or Controlled Activity

## **Definitions**

### SNAs

7. Ms Easton (para. 65 of the 42A report) is correct that in line with the principles set out in cl 3.8(2) of the NPSIB, an assessment should be undertaken prior to an area being identified as a SNA. The NPSIB definition of a SNA does not include areas that are not identified or mapped.
8. West Coast Federated Farmers support Ms Easton's view that having unmapped SNAs referred to and regulated in the Plan is not good process or natural justice for landowners. I return to this point in paragraph 15 of my evidence.

### Indigenous Vegetation Clearance

9. West Coast Federated Farmers sought a specific exclusion from the definition of Indigenous Vegetation Clearance; “it does not include the grazing of pasture or improved pasture species in that area of indigenous vegetation.” Ms Easton does not support this submission, arguing that if included, the exclusion could “result in landowners believing that developing new areas of pasture and grazing being established within the indigenous vegetation is appropriate”.
10. We disagree with Ms Easton’s view that an exclusion for grazing would lead to more development of grazing areas within indigenous vegetation. Our argument is that the permitted activity rule does not clearly provide for grazing as an established activity as it is debatable whether it is ‘maintenance, operation or repair’.
11. We seek relief that the proposed definition of ‘Indigenous Vegetation Clearance’ be amended as follows (addition in *italics*):
 

means the clearing, or removal, damage or destruction of indigenous vegetation by any means, including cutting, crushing, smothering, mobstocking, cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, or burning but excluding the grazing of pasture or improved pasture species and the clearance of indigenous vegetation forming an under storey within an exotic plantation forest

### Significant Indigenous Biodiversity

12. West Coast Federated Farmers sought the inclusion of a definition of Significant Indigenous Biodiversity. Ms Easton’s view (para. 97) is that it is unnecessary to have a definition, and that significant habitats of indigenous fauna and significant indigenous biodiversity can be determined during an assessment process using the criteria set out in the West Coast Regional Policy Statement (WCRPS). We are assuming here that this is an error and Ms Easton means the process to identify a SNA as outlined in the NPSIB, rather than the process in the WCRPS which was made operative before the NPSIB commenced.
13. The proposed rules in the TTPP Ecosystems and Biodiversity Chapter effectively make areas of indigenous biodiversity *quasi*-SNA’s with very restrictive rules, even when that assessment has not been undertaken. An example is Rule ECO – R2, which relates to areas of indigenous vegetation not identified as a SNA but in the coastal environment. The rule proposes that no more than 500 m<sup>2</sup> of indigenous vegetation can be disturbed or cleared over any three-year period, before a consent is necessary.

Ms Easton discusses this restriction at para. 436 of the 42A report, where she states that

*all adverse effects on significant indigenous biodiversity should be avoided and that significant adverse effects on other indigenous biodiversity should be avoided, remedied or mitigated. The area clearance of 500m<sup>2</sup> in a three-year period was considered by the TTPP Committee to be a sufficiently small area of clearance that significant adverse effects on indigenous biodiversity would be avoided.*

14. We note that Rule ECO – R2 does not refer to ‘significant’ at all. So effectively, any indigenous vegetation and any adverse effect, whether significant or not, is captured by the Rule.
15. The NPSIB has an established process to identify SNAs. Policy 6 of the NPSIB states that significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach (underline added). In our view, areas not identified as SNAs should not be regulated as if they are. We are troubled by proposed Rules in the TTPP Ecosystems and Biodiversity Chapter that restrict day to day farming activities on private land where there has been no SNA assessment and therefore no ability for farmers to agree with or challenge the results of the assessment. Who then, is making the decision on what is significant?

### **Ecosystems and Indigenous Biodiversity Chapter Overview**

16. Ms Easton recommends an amendment to the Overview (paragraph 160 of the 42A report) to state that the TTPP is required to give effect to the NPSIB, and that this must be done “as soon as reasonably” practical.
17. The NPSIB does not set a date by which SNAs need to be notified in a plan or plan change. However, the Resource Management (Freshwater and Other Matters) Amendment Bill suspends NPSIB 2023 requirements for councils to identify and notify new SNAs using the NPSIB 2023 assessment criteria and principles for 3 years (from the date of commencement). The Bill is expected to be passed into law later in 2024, i.e. less than six months away. This extension is to allow for ‘a review of the operation of SNAs more broadly’.<sup>3</sup>

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<sup>3</sup> [Resource Management \(Freshwater and Other Matters\) Amendment Bill 47-1 \(2024\), Government Bill Explanatory note – New Zealand Legislation](#)

18. Under the Bill, councils will also have until December 2030 to publicly notify any policy statement or plan or changes necessary to give effect to NPSIB 2023 provisions about SNAs.
19. The Bill is the Government's initial response to widespread concerns about the identification and mapping of SNAs and subsequent restrictions placed on landowners of properties with SNAs. Ms Easton comments on some of the concerns about previous efforts to identify SNAs on the West Coast in her 42A report, including the cost, poor desk-top and ecological information and incorporation of gorse and other non-indigenous vegetation into potential SNA areas.
20. West Coast Federated Farmers considers that it would be wise for the TTPP councils to defer making decisions on policies about the identification and mapping of SNAs, and notification of new SNAs in the plan, until the Government has completed its review into the operation of SNAs.
21. One of the anticipated areas of review is whether the assessment criteria and the methods for identification of SNAs are appropriate. The risk with ignoring the signalled extension to timeframes and stated review, is that the West Coast councils proceed with policy decisions that will, in short order, need to be again updated to give effect to new government direction.
22. The argument that the work must proceed to give effect to the WCRPS (para. 226 of the 42A report) is somewhat tenuous given the WCRPS does not give effect to the NPSIB and needs updating.
23. West Coast Federated Farmers recommends that the three West Coast district councils put the entire Ecosystems and Biodiversity chapter on hold, until the review is complete.

## **Ecosystems and Indigenous Biodiversity Policies**

### Policy ECO – P1 SNA Identification

24. Ms Easton notes (para. 227 of the 42A report) the substantial cost to identify SNAs, estimated to be \$500,000. We think the true cost will vastly exceed that figure. She also notes that many landowners will oppose the process. We agree.

25. Ms Easton notes, at para. 231, that the TTPP needs a policy that sets out the approach [to identifying SNAs] that will be undertaken. West Coast Federated Farmers agrees with this position but argues that it would be sensible to wait until the Government has reviewed the operation of SNAs, before that policy is established.
26. However, if the district councils decide to proceed with the Chapter, ECO – P1(1) should be future-proofed to any changes in the NPSIB by removing the specific reference to 'Appendix 1', as follows:

*The criteria and process set out in the National Policy Statement for Indigenous Biodiversity ~~Appendix 1~~ will be used to identify and map Significant Natural Areas*

27. West Coast Federated Farmers opposes the addition of ECO – P1(5) and P1(6). The title of ECO – P1 is SNA Identification. It is not necessary to have clauses in this policy that relate to how areas not yet identified as SNAs, or not identified as SNAs after assessment, will be regulated through rules. That should be self-evident in the plan.

#### Policy ECO – P2 Activities in SNAs

23. West Coast Federated Farmers strongly opposes Ms Easton's recommended amendments to the notified policy. We consider the notified policy was more succinctly drafted and clearer in intent.
24. We note that Ms Easton considers it not necessary to include a further item (f) as requested in our original submission, on the grounds that provision (a) in relation to lawfully established activities should allow for lawfully established farm and pasture maintenance.
25. However, as drafted, the lawfully established activity of farm and pasture maintenance cannot result in the loss of 'ecosystem representation or degradation of ecological integrity'.
26. West Coast Federated Farmers fears that the onus of proof to determine any loss of ecosystem representation or degradation of ecological integrity will fall on landowners, who will be forced to engage a qualified ecologist to make a subjective judgement on whether, or not, that test has been met.

27. We argue that while this requirement will guarantee a never-ending supply of work for New Zealand's limited number of ecologists, it will do nothing to protect indigenous biodiversity, and will potentially establish a litigious environment between the councils and landowners. It also does not support the positive work that farmers do to maintain and protect indigenous biodiversity, e.g., pest management, and catchment groups.

#### Policy ECO – P6 Assessment of Resource Consents – Activities to Avoid

28. West Coast Federated Farmers supports the addition of the Advice Note and the link to the New Zealand Threat Classification System data base.

#### Policy ECO – P9 Offsetting and Compensation

29. West Coast Federated Farmers supports the proposed amendment but recommends that the words "Appendix 3 and Appendix 4" be removed, in case following the review of the operation of SNAs these sections of the NPSIB are no longer relevant.

### **Ecosystems and Indigenous Biodiversity Rules**

#### New Rule ECO – R1B Indigenous Vegetation Clearance Within a SNA Activity Status Permitted

30. Imposition of the SNA overlay on a farmer's day to day business can lead to perverse outcomes if the rules associated with the SNA become cumbersome and costly for farmers to comply with. Federated Farmers has many examples from its members across New Zealand of how SNA rules in district plans are costing farmers significant time and money to comply with for no additional environmental gain, including having to get consent for relatively minor day to day farming activities.
31. The unfortunate outcome of this situation is that farmers are forced to spend money obtaining a resource consent that could otherwise be spent on conservation measures such as weed control and stock exclusion.
32. The opportunity here is for the West Coast district councils to get the settings right, and to balance protection of ecosystems and indigenous biodiversity with landowners' property rights, including being able to operate their business without significant over-regulation by councils. If the settings are not right, councils will also find themselves inundated with resource consent applications, which they are under-resourced to deal



with. This situation creates a vast wasteful administrative 'paper-go-round' for no environmental gain.

33. West Coast Federated Farmers support a permitted activity rule for the maintenance, operation and repair of established farming activities including, but not limited to tracks, fences, drains, structures and infrastructure within areas identified as SNAs.
34. However, we strongly oppose the spatial limits (within 3m of the established activity and within 50m<sup>2</sup> per individual SNA) that Ms Easton is recommending in Rule ECO – R1B. Ms Easton (para. 398) considers the spatial limits are necessary, to ensure there is no loss of extent, or degradation of ecological integrity of the SNA. There is no information in the 42A report that references an evidence-based link between these spatial limits and loss of extent or degradation of ecological integrity of a SNA. In fact, they appear to be rather arbitrary.
35. The premise that the limits are necessary also assumes that farmers have the desire, time and resources to go out and clear more vegetation than is necessary. This simply isn't true. Landowners have long been stewards for indigenous biodiversity across New Zealand and have protected thousands of hectares of indigenous vegetation on private land through voluntary methods such as QEII covenants, pest and weed control and stock exclusion.
36. Given that some farms on the Coast are likely to have significant areas (i.e. possibly hundreds of hectares, and a large percentage of the total farm area) identified as SNAs under the current NPSIB assessment criteria, a limit of 50m<sup>2</sup> per individual SNA is simply unworkable.
37. We can easily envisage situations, such as emergency works to restore access to farm buildings or infrastructure after a storm or flooding, where it would be impossible for a farmer to comply with these unreasonable limits. It is untenable that a farmer should have to choose between non-compliance or applying for a resource consent in such situations.
38. West Coast Federated Farmers recommends that ECO-R1B(1) be amended as follows:

*For the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity*

*generation activities ~~where the removal is within 3m of the established activity and is limited to a maximum area of 50m<sup>2</sup> per individual SNA and the removal is limited to the smallest extent practicable to undertake that activity.~~*

39. West Coast Federated Farmers is also strongly opposed to the recommended wording in ECO-R1B(2). As it currently reads, the clause suggests that the removal of any indigenous vegetation to ensure that human life, existing buildings or structures are not endangered must be first certified by a council-approved Arboricultural Contractor. This requirement is absolutely unworkable and will add unnecessary cost and time delays that could exacerbate the very danger that the removal of the vegetation seeks to mitigate.
40. Further, failure to obtain the certification presumably means that a resource consent must be obtained, either way landowners are financially penalised for wanting and needing to take preventative measures to ensure their own and other's safety.
41. West Coast Federated Farmers recommends that ECO – R1B(2) be amended as follows:  
*Necessary to remove vegetation that endangers human life or existing buildings or structures. ~~where this is certified by a Council Approved Arboricultural Contractor.~~*

Rule ECO - R1 Indigenous vegetation clearance and disturbance within the Buller and Westland Districts and outside of the coastal environment (Activity Status Permitted)

42. West Coast Federated Farmers requests that ECO – R1(4)(ii) include the words drains and waterlines as established activities.
43. For the reasons stated in the previous section, we strongly oppose the requirement to have a council-approved arboricultural contractor certify removal of vegetation to prevent serious threat to people, property, structure and services (ECO – R1(4)(iv). This requirement should be removed from the clause.
44. We appreciate the addition of clause (4)(xiii), as this recognises that removal of indigenous vegetation for the purpose of maintenance of improved pasture is a day-to-day, existing farming activity. However, the restriction of this as a permitted activity to 5000m<sup>2</sup> per site over any continuous 3-year period is impractical and unworkable, especially for large farms. We recommend that this spatial restriction be deleted.

45. Further, the specification that the removal of indigenous vegetation for the purpose of maintenance of improved pasture relates only to manuka, kanuka and bracken is also impractical and overly restrictive, and fails to recognise the variety of species that naturally regenerate very easily, and constantly on the West Coast.

46. We recommend that ECO – R1(xiii) be renumbered to 5. and amended as follows:

*It is on a site where no SNA assessment has been undertaken or is within an Outstanding Natural Landscape and it is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of ~~manuka, kānuka and bracken~~ only indigenous vegetation that is not part of any wetland and which is under 15 years old.*

45. Delete Advice Note 1 (noting that it is not included as an advice note for ECO-R2):

*~~Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (xiii) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.~~*

46. West Coast Federated Farmers seeks the same changes for ECO – R1A Indigenous Vegetation Clearance and Disturbance Within the Grey District and Outside of the Coastal Environment as above.

ECO – R2 Indigenous Vegetation Clearance in the Coastal Environment (Activity Status Permitted)

47. West Coast Federated Farmers seeks the same changes for ECO - R2 as outlined above for ECO – R1.

48. In addition, we strongly oppose ECO-R2 (2). Many farms are located within the Coastal Environment overlay (for example around Karamea, and Barrytown). A limit of 500m<sup>2</sup> of any indigenous vegetation disturbance or clearance per site in any three year period is simply unworkable for farmers. Imposing an overly restrictive permitted activity rule such as this will lead to an influx of consent applications that councils are not resourced to deal with, or to non-compliance with the rule.

Rule SUB – R7/ ECO – R4 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed

49. West Coast Federated Farmers does not support the addition of the words “where legal protection is proposed” to the title of this Rule. We do not understand the reason for this addition as explained in the 42A report para. 475. Further, it is unclear what the planning provision is that enables ‘proposed’ legal protection. Either an area is identified and mapped as a SNA, or it isn’t.
50. West Coast Federated Farmers opposes the addition of proposed clause 2 of this condition (*an assessment of the site against the significance criteria in the NPSIB is provided with the application and this is undertaken by a suitably qualified ecologist where this has not already been undertaken as part of a district wide SNA assessment*).
51. The NPSIB is very clear that the responsibility for assessment of sites against the significance criteria and identification of SNAs is the responsibility of district councils. It is not the responsibility of consent applicants. This clause should be deleted.
52. It is noted that the 42A officer refers to the public benefit that accrues from the presence of indigenous vegetation (para. 462). West Coast Federated Farmers opposes the imposition of a clause that privatises the cost of that public benefit (in this case, identification of SNAs) to private landowners.

Rule SUB – R9/ ECO R6 Subdivision of Land to create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed not meeting Rule SUB – R7

53. West Coast Federated Farmers seeks the same changes to this Rules as for Rule SUB – R7/ ECO – R4.

Rule ECO – R5 Indigenous Vegetation Clearance not a Permitted or Controlled Activity

54. West Coast Federated Farmers seeks the addition of the following words (underlined) to clause 1(i) to make it clear that it is the responsibility of district councils to undertake the SNA assessment (not private landowners or consent applicants):

*A Significant Natural Area identified in Schedule Four or in an area that has been assessed by the District Council in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area*

END