

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions in relation to the
Proposed Queenstown Lakes District Council
Stage 2 - Proposed District Plan

BY Federated Farmers of New Zealand
Submitter

AND Queenstown Lakes District Council
Respondent

Statement of Evidence of

Kim Louise Reilly

On behalf of Federated Farmers of New Zealand Inc

Dated 6 August 2018

TOPIC 25 – EARTHWORKS

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TOPIC 25 - EARTHWORKS

I. INTRODUCTION

1. My name is Kim Louise Reilly. I am the Federated Farmers of New Zealand (Federated Farmers) South Island Regional Policy Manager. I am authorised to speak on behalf of Federated Farmers.
2. I have a Bachelor of Laws degree from the University of Otago and come from a proud farming background. I have represented the needs and interests of farming members across the South Island for the past six years.
3. I am a member of the national Biodiversity Collaborative Group, which is a stakeholder-led collaborative group established to look at the development of a National Policy Statement for Indigenous Biodiversity (NPS).
4. During my time with Federated Farmers I have gained significant experience in the implementation of the Resource Management Act (the Act), including an understanding of the impact it has on farmers, communities and primary production.
5. The planning and policy aspects of my role include preparing submissions, further submissions and hearing presentations on a wide range of regional and district council plans, and supporting our members to effectively represent their own interests in planning matters.
6. I have experience with resource management planning matters across the South Island, including involvement in the Invercargill City District Plan, Southland Regional Policy Statement, Southland District Plan, Otago Regional Council Plan Change 6A, Otago Regional Council Plan Change 5A (Lindis Integrated Water Management), Southland Water and Land Plan, Marlborough Environment Plan, Queenstown Lakes District Plan, Central Otago District Plan, Christchurch City Plan, Hurunui District Plan, West Coast Regional Policy Statement and many others.
7. My comments today are made in the context of the significant contributions primary production make to the economic, social, and cultural well-being of the Queenstown Lakes District and the wider region.

SPECIFIC PROVISIONS

25.1 Purpose (submission 2540.33)

8. Within our submission, Federated Farmers generally supported the overall purpose of the earthworks chapter. We did, however, have some concern that the *purpose* discusses the impact that earthworks can have on water quality.
9. Otago Regional Council has an operative water plan in place, which sets out the water quality responsibilities of rural resource users in the region and we feel that any variation relating to water would be better addressed through the water plan alone.
10. There could be confusion if two plans require amendment, however we did acknowledge that there is scope for some localised provision and our submission requested an addition to the purpose to allow for smaller scale earthworks in rural

areas. We consider this a pragmatic solution and note that Jerome Wyeth supports this opinion in his section 42A report.

11. Recommendation

- That recommendation 20.27 in the Section 42A report is accepted and that the words “*Within rural areas, some smaller scale earthworks are required to ensure the ongoing viability of rural land uses*” are included in the purpose of the section as per our submission.
- Comments at 20.28 of the Section 42A report may be a matter of interpretation in respect to the term “only”. We do not dispute the underlying intent of the comment.

Policies 25.2.1. and 25.2.1.1 (submissions 2540.34/35)

12. Federated Farmers submission requested the retention of both these policies. This is supported in the Section 42A report which notes that ‘minimise’ rather than ‘avoid’ adverse effects is appropriate given total avoidance of adverse effects is not always achievable for earthworks.
13. Our further submission (2746.32) opposed in part submission 2242.12 from the Department of Conservation as we believed that the requirements that the submission was seeking were too specific. We fully support the Section 42A report comments (9.9 to 9.14) in respect to the DoC submission.

14. Recommendation

- That Policies 25.2.1 and 25.2.1.1 be retained as proposed,

Policy 25.2.1.2 (submission 2540.36)

15. Federated Farmers expressed concern with two points in this policy: the use of the word “protect” and an apparent disparity in interpretation of “amenity values”.
16. We considered the use of “protect” to be too strong – suggesting any change would be prohibited – and suggested “maintain” or similar would be preferable.
17. At the same time, we believe that the terminology used in the policy gave the impression that all farming activities were incompatible with “amenity values” – and doubted that this was the intent of the policy, arguing that in many cases farming activities were part and parcel of those values.
18. We note that both these observations were supported in the Section 42A report and while the recommendations in that report do not accept our proposals verbatim, we believe that they acknowledge the cause of our concerns.

19. Recommendation

- That the Section 42A report recommendation to accept the intention of our submission be accepted and that the policy 25.2.1.2 be adopted as recommended in that report.

Policy 25.2.1.3 (submission 2540.37)

20. Because of what we consider to be an overly broad definition of earthworks, this policy, as written, will entrap standard farming activities such as the maintenance or formation of farm tracks.
21. It could well be argued that this is contrary to the intent of the RMA. It could also be argued that the limitations set by this policy contradict the Section 42A report in respect to policy 25.2.1.2 discussed above.
22. In this situation, the Section 42A report rejects our submission on the basis that it is not “overly onerous” and that “it would be impractical (and very costly) to identify all visually prominent slopes, landforms and ridgelines in the District, as requested by Federated Farmers”.
23. We reject this reasoning. The proposed policy itself, rather than Federated Farmers, introduces the requirement to identify the various landforms. For the sake of consistency, if cost is to be a consideration, the recommendation should be to accept our submission on that point alone
24. **Recommendations:**
 - In view of the apparent incongruity with the intent of the RMA (Sn 10) and Proposed policy 25.2.1.2 as well as potential costs detailed at 9.33 of the Section 42A report, we request that our submission to have this proposed policy deleted be accepted.

Objective 25.2.2 (submission 2540.38)

25. Federated Farmers submission expressed concern that the terminology of this proposed objective could cause its effect to go beyond what was intended. We pointed out that adverse effects from earthworks may be only minor, or transient. We considered that appropriate management, rather than ‘protection from’ adverse effects from earthworks would better provide for the practical need for earthworks.
26. We note that the section 42A report expresses similar concerns about possible ambiguity in the terminology. We believe that the analysis in that report, and its recommendations, reflect our concerns.
27. **Recommendation**
 - That the Section 42A recommendation in relation to Objectives 25.2.1 and 25.2.2 is adopted.

Policy 25.2.2.1 (submission 2540.39)

28. Federated Farmers submitted in support of this policy as proposed.
29. **Recommendation**
 - That the Section 42A report recommendation to adopt the objective as notified is adopted.

Policy 25.2.2.7 (submission 2540.40)

30. Federated Farmers submitted in support of this policy as proposed.

31. **Recommendation**

That the Section 42A report recommendation to adopt the objective as notified is adopted.

Rules 25.3.4.3-5; 25.4.1-2 (submissions 2540.41-45)

32. Federated Farmers supported these rules as proposed.

33. **Recommendation**

- That the Section 42A report recommendation to adopt the rules as notified is adopted.

Rule 25.4.3 (submission 2540.46)

34. Federated Farmers submitted requesting an amendment whereby 25.4.3 would be amended from discretionary to restricted discretionary.

35. We support the explanation and proposed amendment at 20.13 of the Section 42A report.

36. **Recommendations:**

- That the amendment, as proposed in the Section 42A be accepted.

Rule 25.4.4 (submission 2540.47)

37. Federated Farmers submission suggested that the matters for discretion for the construction or operation of a landfill could be specified, to provide for restricted discretionary activity status rather than discretionary activity status as proposed. This could include some of the matters in part 25.7.

38. We maintain this opinion, notwithstanding the comments in the Section 42A report. We noted in the submission that notes that cleanfill or landfill are important in the rural area for the cost-effective disposal of clean waste. Any concerns on control are covered in part 25.7 and using this as the discretionary guideline would avoid unnecessary duplication in fulfilling what is, essentially, a solely an administrative requirement.

39. We do not accept the rationale in the Section 42A Report (11.40) that suggest that the adverse effects are not covered within the sphere of part 25.7

40. **Recommendation**

- The activity status for Rule 25.4.4 is amended from Discretionary to Restricted Discretionary, with the matters for discretion similar to those proposed in part 25.7.

Rules 25.5.6 and 25.5.11 (submission 2540.48-49)

41. Federated Farmers supported the retention of these rules as proposed.

42. **Recommendation**

- That the Section 42A report recommendation to accept the submissions be approved

Rule 25.5.13 (submission 2540.50)

43. Federated Farmers submission supported Rule 25.5.13 in part.

44. One area where we sought amendment to the rule was in requesting that it be limited to **formed** legal roads.
45. There are several instances where unformed legal roads, while still fulfilling the criteria required for “public road” designation, are not used by the public or may be inaccessible to the public. Quirks of history may mean that land that has been used as farmland for several generations, is actually an unformed legal road.
46. While we do not question the legality of the unformed “road”. Indeed, as a legal road it is vested in the District Council as described at 15.13 of the Section 42A Report. Because of this, we do not believe that the report (at that point) addresses our concern. The depositing of material on an unformed legal road does not necessarily amount to an adverse effect. In some cases, it may even be part of a normal farming operation.
47. **Recommendations:**
- That Rule 25.5.13 be amended to stipulate that it does not apply to unformed legal roads.
(This could be done by appropriate insertion in the rule as recommended in the Section 42A report; by adopting the rule as per our original submission – “No material being transported from one site to another shall be deposited remain on any Formed Road”; or by an amalgam of the two.

Rules 25.5.16 and 25.5.18; 25.7 Matters of discretion (submission 2540.51-53)

48. Federated Farmers supported the retention of rules 25.5.16, 25.5.18 and Matter of Discretion at 25.7 We note that the Section 42A Report recommends the acceptance of our submission points.
49. **Recommendation**
- That the Section 42A report recommendation to accept submission points 2540.51-53 be approved

Definitions

50. We accept the Section 42A Report comments in respect to our submission points 2540.54, 2540.55 and 2540.56

Kim Reilly, 6 August 2018