



STRATFORD
DISTRICT COUNCIL

Stratford District Plan

ROLLING REVIEW PART I

INDIGENOUS FOREST & BIODIVERSITY

DISCUSSION DOCUMENT

April 2010

CONTENTS

INTRODUCTION	- 5 -
PURPOSES OF DISCUSSION DOCUMENT	- 5 -
CONTEXT	- 5 -
AIMS OF REVIEW	- 6 -
LEGISLATION	- 7 -
RESOURCE MANAGEMENT ACT 1991	- 7 -
STRATFORD DISTRICT PLAN	- 9 -
CURRENT DISTRICT PLAN APPROACH	- 9 -
SPECIFIC PLAN PROVISIONS	- 10 -
MONITORING INFORMATION	- 19 -
STATE OF INDIGENOUS FOREST	- 19 -
STATE OF SIGNIFICANT HABITATS / WETLANDS	- 22 -
PLAN EFFECTIVENESS AGAINST ANTICIPATED ENVIRONMENTAL RESULTS	- 23 -
EFFECTIVENESS OF SFMP THRESHOLD	- 23 -
EFFECTIVENESS OF IDENTIFICATION AND SIGNIFICANCE	- 27 -
EFFECTIVENESS OF MANUKA RULES	- 29 -
EFFECTIVENESS OF WETLAND AND SIGNIFICANT HABITAT STANDARDS	- 30 -
SUMMARY	- 31 -
PLAN EFFICENCY AGAINST ANTICIPATED ENVIRONMENTAL RESULTS	- 32 -
ALIGNMENT OF PLAN WITH LEGAL REQUIREMENTS	- 33 -
SECTION 6	- 33 -
SECTION 7	- 34 -
SUMMARY	- 35 -
RECOMMENDED SCOPE OF REVIEW	- 36 -
POTENTIAL POLICY RESPONSES	- 37 -
WETLANDS	- 37 -
SIGNIFICANT HABITATS OF INDIGENOUS FAUNA	- 38 -
SIGNIFICANT INDIGENOUS VEGETATION	- 41 -
PERMITTED ACTIVITY THRESHOLD	- 42 -
SUMMARY OF POTENTIAL RESPONSE FRAMEWORK	- 44 -
WETLANDS	- 44 -
SIGNIFICANT HABITATS (FAUNA & FLORA)	- 44 -
INDIGENOUS VEGETATION ACTIVITIES	- 44 -
WHERE TO FROM HERE	- 46 -
PROCESS	- 46 -
DISCUSSION DOCUMENT FEEDBACK	- 46 -
CONTACT DETAILS	- 46 -
CLOSING DATE	- 46 -

INDIGENOUS FOREST REVIEW

INTRODUCTION

PURPOSES OF DISCUSSION DOCUMENT

The Indigenous Forest Review is Part I of the Stratford District Plan 2010 Rolling Review as programmed by the Council in 2009.

This document is the second step of the review process, with the first having been to update the monitoring information as required under Section 35 of the Act.

This discussion document:

- Outlines the legal framework for the review
- Updates the known state of the District in the context of the review
- Outlines any disconnects between the legal requirements and Council's response to date to any change in that state
- Outline the scope of the review as a result of the extent of changes required to the Plan.
- Outlines possible plan change responses to any disconnects

This document does not include the drafting of specific plan clauses. It is intended that feedback on the directions given will allow appropriate provisions to be drafted for later formal consultation.

The discussion document is available for comment and public consultation but will not be subject to any formal hearing process. All feedback will then be used to contribute towards a formal proposal, including the analysis required under Section 32 of the Act, to change the relevant provisions of the Stratford District Plan. That proposal will then be subject to the RMA 1st Schedule requirements for consultation.

CONTEXT

The review of the Stratford District Plan 1997 had not proposed any changes to the existing provisions of the Plan regarding indigenous forestry. Although concerns were noted, particularly around the effectiveness of the Forest Amendment Act 1996 as a means of providing a permitted activity threshold by way of Sustainable Forest Management Plans and Permits (SFMPs), an early decision was made to defer the review of the Plan provisions until the Rolling Review. This decision was consistent with the 2009 amendment to the Resource Management Act (RMA) which removed the need for a review of the complete District Plan after a 10 year period and replaced this with the ability to part review plans to ensure that all provisions are reviewed over a 10 year period.

Some significant changes came about through the submission process, particularly a move from plan rules referring to “clearance” being replaced by “disturbance”. Subsequent appeals relating to decisions on other related submissions are now pending the outcome of the present review.

AIMS OF REVIEW

This review is:

- to identify any deficiencies in the efficiency and effectiveness of the plan provisions relating to wetlands, indigenous forest and indigenous fauna, particularly in terms of the Plan’s stated anticipated environmental outcomes and the requirements of Sections 6(a) and (c) and 7 of the RMA; and
- to propose alternatives for addressing any deficiencies noted.

LEGISLATION

RESOURCE MANAGEMENT ACT 1991

(Emphasis added in bold)

6 *Matters of national importance*

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) ***the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:***
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) ***the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:***
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of recognised customary activities*

7 *Other matters*

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to -

- (a) *kaitiakitanga:*
 - (aa) ***the ethic of stewardship:***
 - (b) ***the efficient use and development of natural and physical resources:***

- (ba) *the efficiency of the end use of energy:*
- (c) *the maintenance and enhancement of amenity values:*
- (d) ***intrinsic values of ecosystems:***
- (e) *[Repealed]*
- (f) ***maintenance and enhancement of the quality of the environment:***
- (g) *any finite characteristics of natural and physical resources:*
- (h) *the protection of the habitat of trout and salmon:*
- (i) *the effects of climate change:*
- (j) *the benefits to be derived from the use and development of renewable energy*

31 Functions of territorial authorities under this Act

- (1) *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
 - (b) ***the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of -***
 - (i) *the avoidance or mitigation of natural hazards; and*
 - (ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
 - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
 - (iii) ***the maintenance of indigenous biological diversity:.....***

STRATFORD DISTRICT PLAN

CURRENT DISTRICT PLAN APPROACH

Overview

The Plan relies on general rules to provide for the protection of indigenous forestry and significant fauna and does not specifically identify either significant indigenous forest or significant habitats of indigenous fauna. Typically within planning documents these are collectively known as Significant Natural Areas (SNAs). Within the Stratford District such areas are included in the Protected Area Zone where they are subject to covenants and have been previously identified by either of the respective regional councils or are within the Department of Conservation estate. Council has deferred to each of the regional councils as being the lead agency for biodiversity within the respective areas of the District.

Although there are parts of the Protected Area Zone which are owned by the Stratford District Council, none of these are either indigenous habitats or wetlands.

Plan Structure

With regard to indigenous vegetation the Plan rules differentiate between general indigenous forest and manuka. The latter is also split between regenerating and mature manuka, with the latter being further split between manuka mixed with other trees and manuka on its own. There are specific rules concerning vegetation alongside water bodies, including wetlands, and separate standards relating to riparian and esplanade requirements alongside rivers and streams. The District does not contain any lakes.

The threshold for permitted activity status is either a SFMP (in the hill or frontal hill country), or the clearance of manuka less than 3m in height throughout the district, or the trimming and removal of vegetation in specified limited circumstances

Provision is made at a non-complying level for either harvesting of timber on the “ring plain” or clearfelling, including mixed manuka / other trees over 3m in height, throughout the District or any disturbance of riparian indigenous vegetation.

Any indigenous forestry activity between these limits has a discretionary status. Specific reference is made to SFMPs closer to the ring plain, land adjacent to Conservation land and the clearance of manuka over 3m in height in specified circumstances without being co-located with other trees.

In addition the riparian standards require riparian planting, including strips, reserves etc as appropriate, within the five ring plain river catchments with the triggers being either subdivision or land use involving land with a catchment water body on it. The riparian provisions also cover the identification and protection of wetlands. The identification of wetlands is deferred in the Plan to the Regional Councils and their protection is through the Protected Area Zone rules through voluntary covenanting or other suitable means by the owners.

Finally there is the interface with the Protected Area Zone provisions, particularly where the Protected Area is a significant habitat and/or Conservation land. Such areas are fully protected under the Plan and any effects from neighbouring activities must also be dealt with. Provisions also relate to specifically identified outstanding natural features and landscapes.

SPECIFIC PLAN PROVISIONS

The provisions listed include all of the provisions relating to indigenous forest. The provisions quoted incorporate the decisions on submissions from the Stratford District Plan Review.

Those provisions under riparian management which relate to wetlands are also included. Some of these clauses are only given in part as it is only that part which relates to wetlands.

Anticipated Environmental Results

- *The natural character of wetlands throughout the District is protected, maintained and enhanced, particularly on water bodies identified as priorities for protection.*
- *The existing character of riparian margins throughout the District is enhanced, particularly on water bodies identified as priorities for protection.*
- *Areas of indigenous forest are protected and retained.*
- *Any use or management of indigenous forest in the district is undertaken on a sustainable basis.*

Part E Definitions

“Indigenous Forest”

is taken to mean, where there is an actual or emerging predominance of maturing indigenous tree species with an average canopy height of at least 3m, and associations characteristic of indigenous forest or emerging indigenous forest, but excluding manuka when not accompanied by other indigenous tree species.

“Indigenous forest disturbance”

means felling, destruction or damage to indigenous forest, including indigenous trees, shrubs and other plants, by any means including cutting, burning, crushing or spraying except that indigenous forest disturbance does not include:

- (a) *actions necessary for the avoidance of imminent danger to human life; and*
- (b) *tree trimming or the selective removal of vegetation necessary for the current operation and maintenance of existing infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines; and*

- (c) the collection of material for scientific purposes or propagation; and*
- (d) the collection of material by tangata whenua for maintaining non-commercial traditional practices of rongā (medical purposes), raranga (weaving) and mahhi whakairo (carving); and*
- (e) the disturbance of vegetation which is not included in the definition of the term “indigenous forest”*

and “indigenous vegetation disturbance” has a similar meaning except that the vegetation may be only in the form of indigenous grasses, shrubs or other plants.

“Riparian management”

means the collection of activities and practices that can be applied to riparian margins in order to improve the natural characteristics of the entire riparian zone.

“Riparian Margins”

are strips of land immediately adjacent to water bodies.

A1.2 Riparian Objectives

A1.2.1 Preservation of the natural character of riparian margins and the protection of them from any adverse effects of inappropriate land use, subdivision or development.

A1.2.2 To enhance the existing character of riparian margins.

A1.3 Riparian Policy

A1.3.3 To preserve the existing natural values and conservation values of both wetlands and the margins of wetlands and protect them from any actual or potential adverse effects of inappropriate land use or development.

A1.4 Riparian Methods of Implementation

A1.4.3 To develop guidelines referring landowners affected by the above methods to the Taranaki or Manawatu -Wanganui Regional Council (as appropriate) for advice as to appropriate methods for sustainable management of the margins of rivers and streams and wetlands.

A1.4.4 To strongly encourage landowners to consult with relevant agencies regarding the evaluation of wetland areas throughout the district, with a view to the voluntary protection of such areas.

A1.4.6 To collect and disseminate information on the ecological importance of riparian management, riparian management techniques, and the roles of other agencies with specialized expertise in riparian management.

A1.4.7 Through these guidelines and information, promote understanding in the community of the importance of riparian management and the sources of riparian management advice, and so encourage the voluntary creation of esplanade strips and the voluntary protection of wetlands throughout the District, and the use of sustainable riparian management practices.

A1.4.8 To use economic instruments in the form of rates relief as an incentive to the voluntary creation of esplanade strips, access strips and covenants by way of voluntary agreements entered into between landowners and the District Council in accordance with the Tenth Schedule of the Resource Management Act.

A2.2 Indigenous Forest Objectives

A2.2.1 The retention and protection of areas of significant indigenous forest within Stratford District.

A2.3 Indigenous Forest Policies

A2.3.1 To recognise the significance of indigenous forest for its role in -

- maintaining and enhancing amenity values; and*
- safeguarding, maintaining and enhancing the biodiversity, values and life supporting capacity of ecosystems; and*
- maintaining and enhancing botanical and wildlife values; and*
- the avoidance or mitigation of natural hazards; and*
- the protection of heritage values.*

A2.3.2 To protect and retain significant areas of indigenous forest, and to protect and retain areas of indigenous forest on the "ring plain".

A2.3.3 To use the enforcement provisions of the Resource Management Act to protect an area of indigenous forest from the adverse effects of land use, development, or subdivision, particularly when (but not limited to) an area of indigenous forest is being subject to clearfelling or selective harvesting or other use or management for which a resource consent is required in terms of this District Plan but which has not been obtained.

A2.4 Indigenous Forest Methods of Implementation

A2.4.1 Rules and standards, and conditions and terms on resource consents will be used to ensure the retention and protection of areas of indigenous forest in the District in general, and to ensure that any proposed use or management of indigenous

forest is only permitted on a sustainable basis, in terms of the Resource Management Act 1991.

A2.4.2 There will be guidelines to -

- suggest other relevant authorities and affected parties a consent applicant may wish to consult regarding any other requirements that may have to be met; and*
- to outline the information to be provided.*

A2.4.3 Either a schedule of Significant Natural Areas will be developed in order to identify those locations within the district which contain areas of significant indigenous biodiversity or a more suitable and effective means of protecting significant indigenous biodiversity will be implemented.

A2.4.4 To encourage landowners, particularly (but not exclusively) on the "ring plain", to voluntarily protect areas of indigenous forest through the use, for example, of covenants.

A2.4.5 Economic instruments in the form of rates relief will be offered as compensation to landowners who voluntarily covenant areas of indigenous forest.

A2.4.6 Liaison will also be conducted with other relevant agencies, particularly the Ministry of Forestry, with regard to seeking information or advice that may be of relevance in evaluating a consent application.

A2.4.7 Monitoring of indigenous forest areas will be carried out.

A2.4.8 To use the enforcement mechanisms of the Resource Management Act to ensure that any modification, use or management of indigenous forest is conducted in accordance with the provisions of this District Plan and/or the conditions of any resource consent granted by the District Council.

B1.2.1.1 Rural Permitted Activity Rules

- Sustainable forest management harvesting of indigenous forest that has been planted and managed specifically for that purpose of sustainable forest management harvesting.*
- Sustainable forest management harvesting of indigenous forest in the "Frontal Hill Country" and "Hill Country" parts of the District (as identified in Figure 2 "Landforms of the Taranaki Region" in the Stratford District Plan), provided these activities have a current "sustainable forest management permit" or "sustainable forest management plan" (as defined in Part E, Definition of Terms).*
- the removal or trimming of vegetation as required for:*

- (a) *actions necessary for the avoidance of imminent danger to human life; or*
- (b) *the current operation and maintenance of existing infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines to a maximum distance of 3 metres from the infrastructure, road, access, fire water point, utility, structure or fence or, in the case of any electricity line, such distance as is prescribed by the Electricity (Hazards from Trees) Regulations 2003 to a maximum distance of 4 metres; or*
- (c) *the collection of material for scientific purposes or propagation; or*
- (d) *the collection of material by tangata whenua for maintaining non-commercial traditional practices of ronga (medical purposes), raranga (weaving) and mahhi whakairo (carving); or*
- (e) *[the disturbance of vegetation which is not included in the definition of the term “indigenous forest] **under appeal**”*
- *[The clearance of manuka less than 3m in height or the clearance of areas of vegetation predominantly comprising manuka greater than 3m in height but EXCLUDING such clearance provided for either as a discretionary activity by Rule B1.2.1.4 or as a non-complying activity by Rule B1.2.1.5] **under appeal***

B1.2.1.2.1 Rural Controlled Activity Matters over which Control is Reserved

(b) *For the subdivision of land specified in Rule B1.2.1.2 above:*

.....

- *the avoidance, remediation or mitigation of effects on wetlands or other significant habitats of indigenous fauna or flora; and*

.....

B1.2.1.3.1 Rural Limited Discretionary Matters to which Discretion is Reserved

(b) *For the subdivision types specified in Rule B1.2.1.3 above:*

.....

- *the avoidance, remediation or mitigation of effects on wetlands or other significant habitats of indigenous fauna or flora; and*

.....

B1.2.1.4 Rural Discretionary Rules

- *Indigenous forest disturbance or the harvesting of indigenous forest not provided for as a permitted activity in Rule B1.2.1.1 but EXCLUDING non-complying activities listed in Rule B1.2.1.5.*

- *Sustainable forest management harvesting of indigenous forest areas which straddle the boundaries between the “ring plain”, “frontal hill country” and “hill country” parts of the District, as identified in Figure 2 “Landforms of the Taranaki Region” in the Stratford District Plan (but EXCLUDING those non-complying activities listed in Rule B1.2.1.5 below).*
- *Any land use, development, or subdivision taking place on land either contiguous with the boundaries of, or directly opposite any road reserve, stream or river which is contiguous with the boundaries of, any “protected area” (as defined in Part E, Definition of Terms) administered by the Department of Conservation, particularly (but not limited to) Egmont and Whanganui National Parks, but EXCLUDING any activity provided for as a permitted activity in either Rule B1.1.1, Rule B1.2.1.1, Rule B1.3.1 or Rule B1.4.1.*
- *The clearance of areas of vegetation predominantly comprising manuka greater than 3m in height, in any of the following circumstances -*
 - (a) *The vegetation is known or reasonably suspected to be habitat for any threatened species, including kiwi, robin or fernbird.*
 - (b) *The vegetation has been recommended for protection under the PNA programme, or recommended in a report for protection by the Forest Heritage Fund or Nga Whenua Rahui committees, or in a report of a CRI, DOC, Conservation Board or Authority or National Parks and Reserves Authority. This includes areas recommended for protection by organisations which preceded those above, such as the Forest Service, DSIR and Wildlife Service.*
 - (c) *The manuka is riparian vegetation, being within 20m of a river, lake, stream, pond, wetland or aquifer.*
 - (d) *The manuka is wetland vegetation (found in permanently or intermittently wet areas, shallow water, and land water margins).*
 - (e) *[The total area of clearance on the property will be greater than 5 ha in any five year period.] **under appeal***
- *Any activity -*
 - *not provided for as a permitted activity in Rule B1.2.1.1; or*
 - *not provided for as a controlled activity in Rule B1.2.1.2; or*
 - *not provided for as a limited discretionary activity in Rule B1.2.1.3; or*
 - *any permitted activity provided for in Rule B1.2.1.1 that fails to comply with the applicable Standards, Conditions, and Terms in Part B.2.*

B1.2.1.5 Rural Non-Complying Activities Rules

- *Harvesting of indigenous forest in the “ring plain” part of the District.*

- *Clearfelling of indigenous forest throughout the District.*
- *Indigenous forest disturbance or indigenous vegetation disturbance, within 20m of a water body.*
- *[Indigenous forest disturbance, where that disturbance is only of manuka greater than 3m in height which is accompanied by other indigenous tree species, unless permitted by Rule B1.2.1.1.] **under appeal***

B2.7 Environment Standards

- *No land use, development, or subdivision that is a permitted activity shall disturb, modify, alter, remove, or cause the destruction of*
 - *esplanade reserve, esplanade strip, or wetland; or*
 - *any adjacent area zoned “Protected Area” in the Planning Maps*
- *Prior to undertaking any land use, development or subdivision that is a permitted activity on the same area of land as any*
 - *area of indigenous forest; and/or*
 - *esplanade reserve, esplanade strip, or wetland; and/or*
 - *any land contiguous with an area zoned “Protected Area” in the Planning Maps;**the land owner or developer should consult with*
 - *the owner (and/or other relevant agency) of any esplanade reserve, esplanade strip, wetland, indigenous forest area, or protected area regarding the avoidance, remedying, or mitigation of any adverse effects of the land use, development, or subdivision on these places.*

B2.9 Covenanted Wetlands

All management practices in respect of covenanted wetlands shall be determined prior to covenanting, and shall be included in the covenant. The management practices to be prescribed shall be determined on the basis of the merits of each wetland area, in consultation with and on the advice of either the Department of Conservation, and/or the Taranaki Fish & Game Council, and/or (as applicable) the Taranaki or Manawatu-Wanganui Regional Council.

B5.5 Discretionary and Non-complying Indigenous Forest Assessment Criteria

In addition to any matter listed in “B5.1 General Assessment Criteria” above, applications for consent for the use or management of indigenous forest that are discretionary or non-complying activities shall be assessed with regard to, and the District Council will exercise its unlimited discretion in respect of, the following matters:

- *the sustainability of the proposal; and*

- *the actual or potential effects on indigenous habitats;*
- *the actual or potential effects on ecological representativeness, in the local, and/or regional, and/or national context; and*
- *the actual or potential effects on the continuity of indigenous forest; and*
- *the actual or potential effects on riparian management; and*
- *the actual or potential effect on amenity and the intrinsic value of the indigenous forest; and*
- *the matters contained in Part II of the Resource Management Act; and*
- *the objectives and policies contained in this Plan; and*
- *whether an applicant has obtained approval from the Ministry of Forestry for a proposed sustainable forest management plan or sustainable forest management permit in terms of the 1993 amendments to the Forests Act 1949 and, if such approval has not been obtained, the extent to which an applicant has sought such approval. If the Ministry of Forestry has declined approval for a sustainable management plan or sustainable management permit, the reasons for this refusal will be considered.*
- *the extent of compliance with a sustainable forest management permit or sustainable forest management plan.*

The process of assessing applications in relation to the first eight of the above bullet points may involve consideration of any or all of the following:

- *the size of an area;*
- *the quality of the vegetation or the habitat for species;*
- *the diversity and abundance of species of plants and animals supported by the habitat, including the diversity and abundance of species representative of the region;*
- *the importance of the habitat or area to the continued survival of indigenous species of plants and animals;*
- *whether the habitat or area contains nationally rare or vulnerable species of plants and animals;*
- *whether the habitat or area supports indigenous species of plants and animals that are uncommon or threatened with extinction (rare, vulnerable or endangered) within the ecological region or ecological district;*

- *the importance of the habitat or area to the maintenance or recovery of a species uncommon or threatened within an ecological region or ecological district, and/or the importance of the habitat or area as an ecological corridor connecting other such areas;*
- *the representativeness of the area or habitat within the ecological region or ecological district;*
- *the contribution of the area or habitat to ecological, scientific, intrinsic, and cultural and spiritual values of the tangata whenua, and to recreational, amenity, heritage, landscape, and conservation values of district and/or regional significance;*
- *the importance of the area for the maintenance and enhancement of botanical, wildlife and fishery values, and the avoidance and mitigation of natural hazards.*

B6.3 Indigenous Forest Information Requirements

In addition to the applicable general information requirements in B6.1 and B6.2 above, applications for consent for indigenous forest disturbance shall include the following information:

- *whether clearfelling or selective harvesting and, if the latter, what proportion of trees will be harvested; and*
- *the type of extraction method/s; and*
- *species and age of trees; and*
- *estimated volume proposed to be logged/extracted; and*
- *whether any other consents are required, including consents from a Regional Council, or consents from the Ministry of Forestry in terms of the Forests Act 1949; whether these have been applied for, or have been obtained, or are still in the process of being sought; and*
- *the results of any consultation with the NZ Historic Places Trust in respect of archaeological sites within the District; and*
- *whether an archaeological authority is required under the Historic Places Act 1993; and*
- *details of the indigenous fauna present in the forest; and*
- *any other relevant information.*

MONITORING INFORMATION

STATE OF INDIGENOUS FOREST

The Stratford District Plan Monitoring framework identifies the following key indicators for establishing the degree to which the anticipated environmental results are being realised:

- number, location and area of logging operations
- SFMPs
- additions to and subtractions from Protected Areas
- developments within Reserves
- Complaints from Iwi
- Area, location and ownership of indigenous forest
- Consent Conditions

The summary of monitoring results is given below for those indicators which gave a non-zero result.

2000 Monitoring Report

LOGGING OPERATIONS

Number: 12
Total area: 2,325 ha

SFMPs

Plans Number: 3
Total area: 1,494 ha
Total Volume: 1,166 m³

Permits Number: 14
Total area: 3,632 ha
Total Volume: 3,397 m³

PROTECTED AREA CHANGES

QE II Trust

Number: 5
Total area: 52.6 ha.

INDIGENOUS FOREST

Total area: 98,474 ha (45% of District)
Ownership: Not known but estimated that 54% in private ownership and 46% in Conservation Estate based on Taranaki Region data.

CONSENT CONDITIONS

One land use consent for a quarry which required the fencing and retiring of a large area of indigenous forest.

2005 Monitoring Report

SFMPs

Plans Number: 3
Total area: 1,494 ha
Total Volume: 1,166 m³

Permits Number:39
Total area: 5,177 ha
Total Volume: 8,894 m³

PROTECTED AREA CHANGES

QE II Trust

Number: 14
Total area: 401.4 ha.

INDIGENOUS FOREST

Total area: 98,474 ha (45% of District)
Ownership: 67.9% in Conservation Estate
32.1% in private ownership (incl. QE II Trust)

2010 Monitoring

SFMPs

Plans Number: 3
Total area: 1,494 ha
Total Volume: 1,166 m³

Permits Number:30
Total area: 3,680 ha
Total Volume: 6,227 m³

INDIGENOUS FOREST

Total area: 96,468 ha (45% of District and excluding Manuka/Kanuka)
Ownership: 73.0% in Conservation Estate
27.0% in private ownership (incl. QE II Trust)

COMPLAINTS

One complaint was lodged concerning logging activity. Council response was enforcement action through the Environment Court.

Comments

LOGGING OPERATIONS

The Plan permitted activity thresholds most commonly used are SFMPs. Other logging operations, which require consent under the Plan, were monitored over a short period during the preparation of the Stratford District Plan 1997. At the time it

was not known if all of the logging sites had been covered in the monitoring. Most of the sites were inaccessible from the road and the aerial monitoring was principally in response to observations of log transportation.

Further monitoring has not been undertaken due to the parallel requirements of the Forest Amendment Act 1996. The observed indigenous forest activity in the District (usually transportation of logs) dropped to negligible levels once the amendment came into force although it has gradually increased again as SFMPs have been exercised.

INDIGENOUS FOREST AREA / OWNERSHIP

The statistics are from analysis of the Land Cover Database (LCDB). The LCDB1 used in 2000 was 1997 data and less accurate than later data sets as shown when overlaid with high resolution aerial photographs. There is therefore a limited ability to use this data as a benchmark.

The later LCDB2 2005 data is more refined, with greater differentiation within indigenous vegetation and more accurate classification. It should offer more opportunity for benchmarking against future changes.

The data from 2010 is the first time that accurate results for both the area and ownership of indigenous forest in the district could be reported due to limitations of electronic mapping of the indigenous forest within the District before 2005.

SFMPs

The areas given are those stated within the plans or permits and not necessarily the actual area of indigenous forest being subject to SFMPs. Electronic mapping of the SFMPs in the District was completed in 2010 although data relating to individual SFMPs remains incomplete.

By 2010 the total area of indigenous forest which had been subjected to SFMPs over the previous 13 years was 8,574 ha as compared with the total area of SFMPs over that period being 16,401 ha. The proportion of indigenous forest that has potentially been logged under SFMPs in that period is therefore 8.9%. This is 33% of the indigenous forest resource which is under private ownership.

These statistics do not include stands of manuka and kanuka which total 19,090 ha. Of these 14,110 ha (74%) is in private ownership and 3,640 ha (19%) is within land covered by SFMPs.

SFMPs are therefore a very significant part of the activity within the district involving indigenous forest, particularly for that portion of the total indigenous forest which lies outside of the Conservation estate.

STATE OF SIGNIFICANT HABITATS / WETLANDS

The Stratford District Council has not carried out an exercise identifying specific significant habitats as this was not required by the Plan which deferred this to the regional councils. Work has been done by both the Horizons Regional Council and the Taranaki Regional Council using the Land Environments NZ (LENZ) data to assist in qualifying the significance of previously identified sites. Identification of the sites in both cases was through consultation with the various government and non-government agencies involved in the promotion and protection of biodiversity.

The Horizons survey identified significant wetlands whilst the Taranaki survey identified a wider range of areas of significant biodiversity. These two surveys have therefore identified:

- significant wetlands throughout the district
- significant habitats of indigenous fauna and flora within that part of the district contained within the Taranaki Region.

A total four significant wetlands in the Horizons area and 10 areas of significant biodiversity, including wetlands, within Taranaki were identified as being within the Stratford District.

Two of the significant wetland areas and eight of the significant biodiversity areas are within the Protected Area Zone of the Stratford District, being either within the Conservation estate or protected by way of covenant. This leaves two significant wetland areas and two other areas of significant biodiversity, also both being wetlands, which have been identified but are not protected within the District Plan.

Horizons has also undertaken a risk classification of landscapes as a part of the review of their Policy Statement. The classification and associated rules are still in process but, if adopted, would replace the previous identification and assessment process. The classification applies to all indigenous environments.

PLAN EFFECTIVENESS AGAINST ANTICIPATED ENVIRONMENTAL RESULTS

EFFECTIVENESS OF SFMP THRESHOLD

Sustainability

The principal difficulty with relying on SFMPs almost exclusively as a permitted activity threshold relates back to the different definitions of sustainable management between the RMA and the Forests Act 1949. These are:

- RMA
*“In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -*
 - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*
- Forests Act 1949
*“**Sustainable forest management** means the management of an area of indigenous forest land in a way that maintains the ability of the forest growing on that land to continue to provide a full range of products and amenities in perpetuity while retaining the forest's natural values.”*

In contrast with the RMA the Forests Act definition is non-specific, particularly in reference to the “natural values”. The Forests Act adopts a comparatively passive approach to management with a reliance on “providing” and “retaining” as compared with the more demanding “sustaining”, “safeguarding”, “avoiding”, “remedying” and “mitigating” of the RMA. The RMA, through the use of these words, demands an active approach towards forest management which is lacking in the Forests Act. The stated purpose of the SFMP section of the Forests Act refers directly back to “sustainable forest management” and is therefore more a means of regulating commercial interest in indigenous forest than protecting the forest itself.

Furthermore, management under the RMA is clearly directed towards the provision of social, economic and cultural needs of society as well as health and safety concerns. In contrast the Forests Act is focused towards products and amenities, with no clarification of what these amenities are.

In summary, in regard to sustainable forest management, whereas the RMA is directed towards a view which encompasses the broader range of societal and environmental concerns, the Forests Act takes a narrower and largely market view of management.

At the very least this leads to a potentially lower hurdle in terms of sustainability when assessing a proposal against the Forests Act as against the RMA. This in turn leads to a wider range of areas being subjected to logging than would necessarily be considered as sustainable in terms of the RMA.

The risk therefore, in the absence of any means of determining the significance of any particular area, is that in relying on SFMPs the potential to log an area of particular significance is increased. The potential effects of this are compounded by the inability of the administration of SFMPs to take account of the wider issues imperative under the RMA.

SFMPs and Significant Areas

Areas of land are significant for a number of reasons which, in the context of the District Plan, include:

- indigenous vegetation
- indigenous fauna
- outstanding landscapes
- protected vegetation
- heritage resources
- archaeological sites
- iwi matters

SIGNIFICANT INDIGENOUS VEGETATION

The Plan has to a large extent relied on the Protected Area Zone provisions for the protection of identified significant indigenous vegetation, with these being sites identified through the two regional council exercises and conservation areas. None of these sites are within, adjacent to (except for the Conservation estate areas) or affected by any of the SFMPs granted to date.

The potential for future conflict is dependant on enforcement of the standard relating to permitted activities not affecting such areas where they are contiguous.

SIGNIFICANT INDIGENOUS FAUNA

The approach and result to date is as for significant indigenous vegetation except that it is also noted that the Plan contains specific provisions relating to significant indigenous fauna.

Firstly, the clearance of indigenous vegetation alongside water bodies is a non-complying activity throughout the district (this test was lifted to “disturbance” in the review of the Plan). This recognises water bodies as being significant indigenous habitats in the district. Recent enforcement activity involved renewed forestry work in an area covered by a recently expired SFMP and within 20m of a stream. The decision confirmed that the 20m non-complying activity status applies

irrespective of whether or not the rest of the activity enjoys a permitted activity status.

The difficulty with this is that every SFMP which has been granted within the district covers an area containing at least one and usually several water bodies. Therefore consent should have been taken for each time that the exercise of the SFMP involved the clearance of trees within 20m of a water body, as required for an access track for example. The remote location of these areas renders monitoring almost impossible unless there is some notification process in place when an SFMP is granted. In addition mapping of the SFMPs has only been available to Council in the last year.

Secondly, the Plan references significant indigenous fauna within the manuka clearance rule. Again, remote locations have precluded realistic monitoring although some activity has been brought to Council's attention through complaint.

Further discussion on the manuka rules is given below.

OUTSTANDING LANDSCAPES

The outstanding landscapes within the District are defined within the policy section of the Plan but their protection, beyond what is applicable to network utilities, is dependant on the general assessment criteria for the consideration of consent applications.

The obvious pure policy difficulty with this is that the exercise of permitted activities can proceed without regard for outstanding landscapes, with this including SFMPs. The potential for effects in regard to the disturbance of indigenous forest is however very limited as the only identified outstanding landscapes which have indigenous forest associated with them are the Egmont National Park, the Whanganui National Park and the Whangamomona Saddle, all of which are within the Conservation estate.

Because of this, in practice there has not been and will not be any effect from SFMPs on outstanding landscapes within the district.

PROTECTED VEGETATION

The complete protection of vegetation under the Plan is either by way of the Protected Area Zone provisions or through the schedule of Protected Trees and associated provisions.

The discretionary rule relating to the Conservation estate required, prior to the review, any activity, whether otherwise permitted or not, to be assessed as discretionary if it was adjacent to Conservation land. Almost all of the SFMPs granted have been located adjacent to Conservation land but none have been subject to consent, i.e., an identical problem to that identified in regard to water bodies. Beyond complaint from the Department of Conservation, which has only occurred

on one occasion, there is no means of gauging the effect of SFMPs, if any, on the Conservation estate.

None of the granted SFMPs are co-located or near any listed protected trees and neither are any of the protected trees within or close to any area of indigenous forest. There does remain the risk of effects from future SFMPs should individual trees be protected within or near areas of privately owned indigenous forest.

HERITAGE RESOURCES

Heritage resources are specifically scheduled within the Plan and protected through a range of provisions including rules, standards and assessment criteria from all activities whether permitted or not.

None of the granted SFMPs are co-located or near any listed protected heritage resources and neither are any of those protected heritage resources within or close to any area of privately owned indigenous forest. Because of this any future SFMP would have not have any effect or be located in close proximity to any heritage resource (excluding archaeological sites as discussed below).

ARCHAEOLOGICAL SITES

Archaeological sites enjoy the same protection under the Plan as other heritage resources but are listed in a separate schedule. Almost all of these sites are rural and located within the eastern hill country.

Eight of the granted SFMPs cover land including 23 archaeological sites. Of these only seven of the archaeological sites are within actual areas of indigenous forest included in three of the SFMPs. All of these sites are within the Te Wera and Mangaehu areas of the district.

Again there has been no notification of the SFMPs to Council prior to granting and monitoring of these remote locations is problematic. The sites are known to still be present, through the national Archaeological Sites Survey, but they are obviously at high risk where logging activity is potentially occurring over them.

IWI MATTERS

Beyond the archaeological sites Iwi concerns are shown through complaints. There has only been the one instance involving an area, subject to an expired SFMP and mentioned under Significant Indigenous Fauna above, which resulted in enforcement action by Council. The potential lack of protection of such areas under SFMPs, as noted, would potentially be of concern to Iwi.

The risk to archaeological sites through the exercise of SFMPs is also of significant concern to Iwi

Monitoring of SFMPs

When SFMPs were first introduced very little monitoring of them appeared to be carried out by the Ministry of Forestry until staff resources within the Ministry were increased.

Although an increased level of monitoring now occurs, it is from the perspective of the Forests Act and does not necessarily take account of the wider issues included under the RMA.

No physical monitoring of SFMPs has been carried out by Council, primarily because of the very remote locations involved for the majority of these sites. Although monitoring information concerning the number, timber volumes and areas of SFMPs has been available the locations were not accurately specified. Until the last year Council was not able to access accurate mapping of the granted SFMPs as there is no notification process involved in the processing of SFMP applications through the Ministry of Forestry.

Remote monitoring has been the only practicable way in which the effectiveness of SFMPs can be monitored. The usefulness of SFMPs as a permitted activity threshold is severely limited where the monitoring is problematic. Recent discussions with Ministry of Forestry staff suggest that notification of the Council when SFMPs are being processed could be done which would then lead to an improved monitoring regime.

EFFECTIVENESS OF IDENTIFICATION AND SIGNIFICANCE

In terms of section 6(a) and (c) of the RMA, significance in the Plan relies on the general discretionary and non-complying rules as well as the Protected Area Zone provisions. In addition the assessment criteria cover areas of significance but, as only one consent has been applied for in regard to indigenous forestry, these remain largely untested.

Discretionary and Non-Complying Activity Rules

The Plan sets a higher bar, and thereby attributes significance, for indigenous forestry in the following specified situations:

DISCRETIONARY

- the boundary area between the frontal hill country and the ring plain
- areas adjacent to any Conservation land
- Immature manuka which is riparian, associated with a wetland or is a significant habitat of indigenous fauna

NON-COMPLYING

- Ring plain location
- Riparian
- Mature manuka

The wording of the discretionary activity rule relating to SFMPs “straddling the boundaries” between the stated landforms is very poor. Taken literally, the rule has no application as there are no indigenous forest areas which actually straddle those boundaries.

The rule should in fact only apply to the ring plain / frontal hill country boundary as SFMPs are permitted across both the frontal hill country and hill country areas and therefore that boundary line is irrelevant. There are several areas, each less than 2 ha,

which are within 200m of the ring plain boundary but given their small size are unlikely to be placed under a SFMP.

The rule is therefore ineffective in its wording and redundant in its intent.

Difficulties with the Conservation estate rule are primarily a result of monitoring difficulties as discussed above. It is also noted that the rule, as recently reviewed, would allow permitted activity SFMPs to be permitted alongside Conservation land in the hill country and frontal hill country although the standard relating to specific effects still applies.

The two non-complying activity rules relating to ring plain and riparian indigenous forestry are very clear and enforced. The only difficulty is with the riparian rule in the hill country and again is a monitoring problem as discussed above.

The manuka rules are discussed separately.

The Plan has worked well in achieving the protection of ring plain indigenous forestry. The protection of riparian vegetation is in conjunction with specific riparian standards contained elsewhere in the Plan and the Taranaki Regional Council initiatives. These have combined to provide effective protection of the upper catchment areas on the ring plain but little is known of the state of hill country riparian areas, particularly in forested areas.

Protected Area Zone

Land is included in the Protected Area Zone if it is land administered as a reserve by either the Department of Conservation or the Council or is subject to a covenant under one of the scheduled acts, such as a QE II covenant. The latter are voluntary but any subject land enjoys a 100% rates remission as some incentive.

As noted above, of the 14 significant wetlands and/or habitats within the district and identified by the regional councils 10 are within the Protected Area Zone and enjoy the full protection afforded by their respective management plans and Plan standards. None of these areas, whether protected or not, have been threatened by indigenous forestry activity since 1997 when the Plan first became operative.

Of the areas identified to date:

- five are within the Conservation estate
- two are under QE II covenants
- three are under conservation covenants
- four are unprotected

The two regional council inventories relied on the previous identification of potentially significant sites which have then been screened using the LENZ criteria. This identification was carried out in consultation with the district councils and various government and non-government agencies including the Department of Conservation,

Fish and Game NZ and the Royal Forest and Bird Protection Society. However there remains no guarantee that this work has in fact identified all of the significant sites. This was highlighted in recent enforcement action by Council involving a blue duck breeding and kiwi habitat area which, although known of, had not been identified in the inventory survey.

The Protected Area Zone provisions are effective in achieving the protection of areas of significant fauna and/or flora except where voluntary protection has not been followed through with. The uncertainty is in the number of areas which have not yet been correctly identified and screened. It is also noted that the Horizons Inventory only includes wetlands and therefore may well exclude a number of other areas of significant flora and/or fauna.

The potential for increased effectiveness lies in the encouraging of the voluntary retirement, through covenanting of those areas which remain unprotected.

EFFECTIVENESS OF MANUKA RULES

Interpretation of Manuka Rules

The Plan differentiates manuka between regenerating and mature manuka based on a height split at 3m. Manuka over 3m in height is further differentiated between manuka mixed with other trees and manuka on its own. In addition manuka over 3m in height and mixed with other trees is also caught by the indigenous forest provisions.

The rules, as proposed in the review, therefore provided for:

- Manuka under 3m being able to be cleared as a permitted activity
- Manuka under 3m and riparian requiring consent as a non-complying activity
- Manuka over 3m and unmixed with other trees, being able to be cleared but requiring consent as a discretionary activity where it is:
 - a significant indigenous fauna habitat
 - riparian or associated with a wetland
 - recommended for statutory protection
 - being cleared at a rate of more than 5 ha in five years
- Manuka over 3m and mixed with other trees being cleared but requiring consent as a non-complying activity
- Manuka over 3m and mixed with other trees and on the ring plain being harvested requiring consent as a non-complying activity
- Manuka over 3m and mixed with other trees and under a SFMP as a permitted activity

Under these rules the clearance of less than 5ha per 5 years of pure manuka greater than 3m in height would not be permitted, as the permitted activity rule only applies where the height is less than 3m, but would be discretionary under the “catch all” rule. This is obviously in conflict with the specific discretionary rule, B1.2.1.4(e), relating to manuka clearance. Similar reasoning applies to each of the other discretionary circumstances listed and therefore the specific manuka discretionary rule is redundant.

Through the wording of the rules, therefore, the following is also required, albeit unintentionally:

- Manuka over 3m and unmixed with other trees being cleared in any circumstances requiring consent as a discretionary activity

In essence the Plan was structured to recognise that:

- Manuka under 3m in height is scrub and should be able to be cleared as a part of standard farming operations without consent unless it is riparian vegetation.
- Manuka over 3m in height but not associated with other trees should be able to be cleared as a part of standard farming operations without consent except in specified circumstances (above a given clearance rate and significant habitat, riparian or recommended for protection).
- Manuka over 3m in height but not associated with other trees and in situations of specified significance (above a given clearance rate and significant habitat, riparian or recommended for protection) should be able to be cleared subject to consent but at a lower test than for situations where it is co-located with other trees.
- Manuka over 3m in height and co-located with other trees is indigenous forest.

Faulty wording of the rules has meant that Bullet Point 2 was not achieved.

Effectiveness of Manuka Rules

No consent has ever been taken in the district for activities involving manuka. In addition the rules are complex, contradictory and unclear in their application. The lack of clarity is especially apparent in the use of words such as “pure manuka” which arguably does not exist. The intent is clear but the application rather less so.

Even if it is accepted that the intent of the discretionary rule is to require a consent for the clearance of manuka over 3m in height, but not mixed with other trees, only when it is in a significant area and above a stated rate (i.e., if it is not significant and below the stated rate then the activity is permitted) potential difficulties still remain. The permitted clearance could potentially take place without any determination of its significance as there is no appropriate standard requiring that assessment. This is particularly the case for potential significant habitats as the discretionary wording refers only to where this is either “known or reasonably suspected”. As discussed above in reference to the Inventories compiled to date, there is no guarantee that these are complete.

The non-complying rule refers to the clearance of manuka where the manuka specified in the rule is already included in the definition of indigenous forest and therefore also included in the specific non-complying indigenous forest clearance rule. The only caveat is where such manuka is under a SFMP in which case it would be permitted to harvest.

EFFECTIVENESS OF WETLAND AND SIGNIFICANT HABITAT STANDARDS

Where wetlands or significant habitats are covenanted or otherwise protected there is no difficulty with the Plan provisions as both the rules and standards pertaining to the Protected Area Zone apply.

Difficulties potentially arise where these identified areas are on private land and are not covenanted. One issue is the previously identified monitoring issue where there is no requirement to notify Council of any permitted activity on or adjacent to these areas and the areas tend to be remote.

The other associated issue is that although there is a requirement to consult, such consultation is only required with the landowner where the permitted activity is on the same land. The effectiveness of such a limited requirement is debatable as is the lack of real ability to enforce or document the consultation.

The Plan has no specific standards relating to significant habitats of indigenous fauna and the only specific rule is related to manuka clearance.

SUMMARY

The reliance of the Plan on SFMPs to a large extent as a permitted activity threshold fails in the main because of the difference in the meaning of “sustainability” between the Forests Act and the RMA. There are also particular difficulties in the potential for conflict between SFMPs and riparian vegetation, the Conservation estate and archaeological sites.

The general rules which provide for the protection of indigenous forest areas work well at the non-complying level, setting to one side the doubling up of the manuka rule, but less so at the discretionary level.

The provisions relating to manuka in particular are difficult, lacking in clarity and contradictory. Coupled with monitoring difficulties it is doubtful that these rules contribute anything to the effectiveness of the Plan.

The rules and standards relating to otherwise unprotected wetlands and significant habitats are sparse and largely ineffective. The effectiveness is only apparent when these areas are brought into the Protected Area Zone by way of covenanting.

The provisions relating to Riparian Issues and Outstanding Natural Features and Landscapes are effective, particularly in regard to their relationship with indigenous forestry and wetlands.

PLAN EFFICENCY AGAINST ANTICIPATED ENVIRONMENTAL RESULTS

Potential and actual inefficiencies have been noted in the above discussion. These are mainly monitoring problems which result from the relative inaccessibility of the eastern hill country forest areas. This is exacerbated by the almost complete lack of land development or subdivision east of Douglas. The operation of existing farms, small areas of exotic forestry and SFMPs accounts for almost 100% of the activity on private land in the eastern two thirds of the District. The operation of existing farms also includes the burn-off or alternative destruction of areas of indigenous scrub of which the significance is largely unknown.

Integrated resource management, particularly with the two regional councils, has proven efficient. The identification of significant wetlands and areas of significant biodiversity is the main example of this, whilst potential concerns about the effectiveness where Council is made aware of the locations are accepted as noted above. The two regional councils have staff expertise which Council could only gain through relatively expensive contractual arrangements.

The administration of SFMPs has not been so successful in regard to efficiency. This is due mainly to the lack of information available historically from the Ministry of Forestry which, in turn, relates back in part to the different emphasis that the Department has in administering SFMPs. Recent discussions with Department staff suggest that the difficulties Council has experienced could be dealt with by a simple notification process to Council when an application for an SFMP is received.

The lack of development activity and consent processes, again noting the monitoring difficulties particularly in regard to riparian vegetation in the hill country, limits the amount of information available concerning the efficiency of the remaining Plan provisions.

ALIGNMENT OF PLAN WITH LEGAL REQUIREMENTS

SECTION 6

Legally Mandated Requirements

The RMA Section 6 requires that the District Plan provides for, in the context of this review:

- the preservation of wetlands
- the protection of wetlands from inappropriate subdivision, use and development
- the protection of significant indigenous vegetation
- the protection of significant indigenous fauna habitats

Implicit within these requirements are:

- the identification of wetlands
- an assessment of the significance of indigenous vegetation
- an assessment of the significance of habitats of indigenous fauna

Specifically, the achievement of the four RMA Section 6(a) and 9c) directives listed above is totally dependant on the three implicit actions being carried out under the District Plan. This does not, however, preclude the use of outside agencies to assist.

In order to achieve these directives the functions of territorial authorities include the control of effects for the purpose of maintaining indigenous biodiversity. This contrasts with the wider function of regional councils to establish, implement and review objectives, policies, and methods for maintaining indigenous biological diversity.

Linked in with this is the additional requirement for RMA territorial authority plans to give effect to regional policy statements.

Identification of Wetlands

The Plan relies on the inclusion of wetlands in the Protected Area Zone. The two regional council surveys have listed eleven wetlands of which seven are protected within the District Plan.

The issue which arises in terms of identification is whether or not the identification of “significant” wetlands, as opposed to “all” wetlands is sufficient in terms of Section 6(a) of the RMA. If it is accepted that the identification of “significant” wetlands is sufficient then the surveys carried out have achieved this.

Preservation and Protection of Wetlands

The plan method is non-regulatory and has failed to achieve the protection of all of the wetlands with four remaining at risk. There is some degree of protection afforded, however, through the application of Standard B2.7 which applies as soon as a wetland is identified and irrespective of its protection status.

The preservation of wetlands is through the covenant documents as required in the Plan standards. In practice, and as anticipated in the Plan, this involves co-operation between the landowner and the respective regional council to ensure that the necessary measures are put in place. A difficulty arises where there is no covenant or other suitable mechanism in place enabling preservation.

Assessment of Significant Indigenous Vegetation

Beyond establishing that indigenous vegetation which is either on the ring plain, is riparian or is adjacent to a Protected Area is potentially significant and placing rules and standards around those areas, the Plan does not allow for establishing the significance of any area of indigenous forest.

In particular this means that the level of significance of much of the remaining hill country indigenous forest beyond the Taranaki Region in private ownership is not known. More recent assessment work by Horizons Regional Council suggests that almost all of the indigenous forest area in the Horizons part of the District is ranked as being threatened, where the habitats have been reduced to no more than 20% of their original extent.

The Taranaki Regional Council survey of significant ecosystems does include significant indigenous fauna with eight of the ten identified and assessed areas having been included in the Protected Area Zone.

Protection of Significant Indigenous Vegetation

The Plan has achieved the protection of significant indigenous forest where that forest is included in the Protected Area Zone or is on the ring plain. The degree of protection gained for riparian indigenous forest, particularly in the hill country, is rather less certain.

Because no assessment has been carried out of significance, the Plan is unable to achieve the protection of other potential areas of significant indigenous vegetation.

Assessment of Significant Indigenous Fauna Habitats

This assessment has been carried out within that part of the District within the Taranaki Region but only in relation to wetlands in the Horizons Region. The assessment has relied on previous identification of such areas.

Protection of Significant Indigenous Fauna Habitats

All four areas which have been identified in the two regional surveys but remain outside of the Protect Area Zone are wetlands and therefore significant indigenous fauna habitats. The plan method is non-regulatory and has failed to achieve the protection of these habitats.

SECTION 7

Legally Mandated Requirements

The RMA Section 7 requires that Council have particular regard to:

- stewardship

- the efficient use and development of natural resources
- the intrinsic value of ecosystems
- the maintenance and enhancement of environmental quality

Administration of Plan

In practice, provided that the requirements of Section 6 are met within the provisions of the Plan, the particular elements of Section 7 are then given weight to in the administration of the plan, particularly through the consideration of consent applications.

Potentially the Plan currently has regard to the efficient use and development of the indigenous forest resource at the expense of the remaining elements listed. The reason for this is the weighting given to SFMPs as a permitted activity threshold without due consideration to the significance of the areas being logged.

The use of SFMPs as a threshold nevertheless still has value in meeting the requirement relating to the efficient use and development of natural resources, provided that this is not in conflict with the imperatives to protect areas of significance, be they related to fauna, flora, heritage or amenity values.

In regard to wetlands the mechanisms for achieving the third and fourth elements listed in particular are within the plan. There is a difficulty however, as identified in respect of Section 6, that the non-regulatory mechanisms alone have not been completely successful.

Only one consent has been granted which was covered under the indigenous forest objectives and policies and none have been granted in respect of wetlands. Therefore the administration of the Plan regarding Section 7 is largely untested.

SUMMARY

The identification of wetlands has to a large extent been achieved. The non-regulatory mechanisms relied on subsequent to identification have failed to achieve the protection and preservation of all of these areas.

The Plan achieves little in regard to assessing the significance of indigenous forest areas and therefore the level of protection provided is unknown.

The Plan provisions relating to the Protected Area Zone are effective and, with suitable enforcement, do provide a high level of protection to these areas.

RECOMMENDED SCOPE OF REVIEW

On the basis of the analysis provided above it is recommended that the scope of the Indigenous Forest Review encompasses the following questions:

1. Is the identification of wetlands in the District sufficient?
2. How should the non-regulatory mechanisms for protecting wetlands be augmented to provide sufficient protection of these areas?
3. Where should the protection of significant habitats of indigenous fauna sit in the Plan?
4. Is the identification of significant habitats of indigenous fauna in the District sufficient? If not, how should significance be assessed?
5. How should the non-regulatory mechanisms for protecting significant habitats be augmented to provide sufficient protection of these areas?
6. How should the use of SFMPs as a threshold for permitted activities be augmented to ensure that all such permitted activities are sustainable in terms of the RMA?
7. How should the assessment of significance of indigenous forest areas be achieved?
8. What general, particularly discretionary activity, rules are required to ensure that the indigenous forest resource is not at risk from inappropriate development etc?

It is recommended that the Review does not encompass the Riparian Issue (except as pertains directly to the identification, preservation and protection of wetlands), the Protected Area Issue or the Outstanding Natural Features and Landscapes Issue. The reason for this is that the provisions in the Plan for each of these issues are efficient and effective in meeting the Plan Anticipated Environmental Results and Section 6 and Section 7 requirements in regard to wetlands, indigenous forest and indigenous habitats. There are no potential identified issues regarding the integration of the Plan provisions for these issues with those related to the wider biodiversity issue.

POTENTIAL POLICY RESPONSES

WETLANDS

Identification of Wetlands

There are only two options, given the imperative of the RMA Section 6(a) wording to preserve wetlands:

- Status quo, i.e., deferring to the Regional Council surveys.
- Council undertaking an independent survey of wetlands in the District.

The only potential difficulty with the survey work completed to date is that both are limited to some extent to the identification of “significant” wetlands, whereas the RMA refers to all wetlands irrespective of significance. If this is an actual problem then it could either be the subject of further discussion with the regional councils or the need for preservation could be addressed through further specific rules and/or standards in the Plan.

There appears to be little to gain from Council repeating the work which has already been carried out by the regional councils in identifying wetlands. Council staff are not specialised in this area and therefore resources would have to be contracted in. It is unlikely that an exercise such as this, with its attendant expense, would result in the identification of any further substantial wetland areas.

The preferred option is:

- Status quo

Preservation and Protection of Wetlands

Possible options include:

- Status quo, i.e., non-regulatory methods
- Mandatory covenanting of identified wetlands
- Specific rules and/or standards protecting wetlands
- Widen the standard concerning riparian protection around wetlands

The use of non-regulatory methods alone has not achieved the full preservation and protection of wetlands. Mandatory covenanting of such areas as identified would ensure their preservation through the exercise of the applicable covenant and their protection through then being included in the Protected Area Zone. Whether or not this is possible is open to debate. In the event that it is, the approach of regulating the need for a covenant is anathema to anyone entertaining a covenant which by its very nature requires a co-operative approach.

An alternative may be to include as a method the inclusion in the Protected Area Zone of any areas identified through the regional council surveys. The non-regulatory mechanisms would still apply to encourage covenanting and therefore more consistent management of the areas. These areas would still be subject to full protection under the Plan.

It is possible to strengthen the standards relating to wetlands under B2.7 and to link these back to appropriately worded rules. These could apply whether or not a wetland has been specifically identified and thereby ensure preservation and protection. Part of the difficulty with the standards at present is the lack of process for ensuring that the necessary consultation and consideration of effects actually takes place. This would normally be through a consenting process.

A suitable rule may be to assign any disturbance of vegetation a discretionary status if within 20m of a wetland, whether otherwise permitted or not. It may also be appropriate to strengthen the environmental standards with specific requirements relating to riparian vegetation associated with wetlands.

The preferred options are:

- Specific rules and/or standards protecting wetlands
- Widen the standard concerning riparian protection around wetlands

SIGNIFICANT HABITATS OF INDIGENOUS FAUNA

Identification of Significant Habitats

There are at least three options, given the imperative of the RMA Section 6(c) wording to protect significant habitats:

- Status quo, i.e., deferring to the Regional Council surveys.
- Council undertaking an independent assessment of the significance of habitats of indigenous fauna in the District.
- Specifically identifying significant areas in the Plan.

One of the major potential difficulties with the survey work completed to date is that the assessment of habitats in the Horizons region is limited to wetlands. Therefore there is high probability that a number of significant habitats have been missed. 30% of the indigenous forest in the Horizons part of the District is in private ownership and it must be assumed that this contains a number of discrete areas of significance which have not been assessed.

The other difficulty is that there is no guarantee that the identification of individual significant habitats has been or ever will be complete.

There appears to be little to gain from Council repeating the work which has already been carried out by the Taranaki Regional Council in identifying and assessing significant habitats for the same reason as discussed under wetland identification.

Horizons has recognised the limitations of their survey work in not covering indigenous fauna or flora particularly well. In addition the limitation of relying on the prior identification of discrete areas of significance, insofar as the risk of areas being missed, has been recognised in their One Plan development. The approach is shifting to one being based on general rules applying to at risk environments although there remains the

difficulty of ensuring that activities in such environments are being brought to the regional council's attention.

The third option builds on either of the first two options by then listing the specific areas within the Plan. Given the lack of guarantee around the effectiveness of such lists, a better option may be to ensure protection of such areas through the general vegetation disturbance and riparian rules.

The preferred option is:

- Status quo

Protection of Significant Habitats

Significant habitats of indigenous fauna are not referenced in the District Plan except as part of the discretionary manuka clearance rule and, when covenanted or otherwise protected, through inclusion in the Protected Area Zone. Therefore the status quo is not a valid option.

In regard to where the protection of these areas should sit in the Plan, there are two options:

- Including significant habitats within the indigenous forest issue
- establishing a discrete issue for significant habitats

The RMA includes both significant indigenous fauna and flora in the same subsection. The two are usually, although not always, co-located and interdependent. In addition the identification and monitoring of significant habitats is intrinsically linked to that for significant indigenous forest. It is therefore recommended that the policy framework, with attendant rules, conditions and terms, be set up within the Indigenous Forest issue.

One approach is to list previously identified significant areas and any future areas assessed as such in a schedule and linking discretionary and/or non-complying rules to that schedule. This may superficially give more certainty to landowners wishing to carry out activities. Ultimately, however, there is a risk that not all areas would be identified and that landowners may run foul of the existing plan standards through simply not being aware of the significance of the particular area.

In addition, the identification of discrete areas of significance may not sit well with the shift towards a risk based environments system in the Horizons area. From a biodiversity perspective all of the remaining indigenous vegetation in at least this area of the District is significant in terms of being at least a threatened environment.

There may still be a need to include assessment criteria within the Plan around determining significance despite the environments assessment outcome. Activities will still occur in these areas and need to be assessed for effects on the maintenance of biodiversity. Such assessment criteria would also apply to indigenous flora and would be linked to rules which require formal assessment by a suitably qualified person. These criteria could encompass:

- Distinctiveness, particularly the presence of rare or endangered species either nationally or within the particular ecological area
- Representativeness, with a minimum level being set as a trigger point
- Connectivity, with emphasis on the establishment and maintenance of corridors between areas
- Scientific or cultural value, with emphasis on Iwi significance
- Protection status, included if it has been recommended for protection by a statutory body

Such ecological assessments would then be required for any activity involving indigenous vegetation which is not a permitted activity. The Plan already contains criteria to ensure that effects are taken into account and the required ecological assessments are then the formal method for meeting these criteria.

In some cases assessment criteria also includes a minimum area either as an absolute or as a rate per year. There are difficulties with this approach however. Many remaining areas of indigenous vegetation, which may or may not be significant fauna habitats as well, are small in area and can be isolated. This was particularly the case in the upper catchment areas of the District prior to the extensive planting of riparian margins in these areas. The small isolated areas became effectively joined and now act as significant corridors for indigenous fauna. In addition, a rate of clearance is very difficult to monitor, particularly in the remote eastern areas of the District.

A preferred approach may be to ensure that a robust suite of rules are put in place to ensure that activities involving potential habitats only occur subject to a suitable assessment of the location. There remains a need, however, to ensure that a certain level of activity is permitted to ensure that farming activities can continue where the risk to environments is low.

The preferred options are to:

- Provide a definition of “significant indigenous habitat” as being an area either meeting the assessment criteria listed for significance or having been previously identified and scheduled in the Protected Area Zone.
- Include significant indigenous habitats in the indigenous forest objective.
- Add a specific policy statement covering the protection of significant indigenous habitats.
- Include significant indigenous habitats in the enforcement policy statement relating to indigenous forest.
- Include suitable assessment criteria, with trigger points, as a method within the Indigenous Forest issue.
- Require any indigenous vegetation activity over the permitted activity threshold to be subject to ecological assessment.
- Include significant indigenous habitats within the existing environmental standards in the Plan.

SIGNIFICANT INDIGENOUS VEGETATION

In summary the problem with the Plan in regard to significant indigenous vegetation is that it permits a potentially high level of interference without any recognition of the potential significance and with no means of effectively monitoring and assessing the area concerned. Limited assessment has been carried out of the significance of indigenous vegetation within the eastern part of the District and only limited areas have been determined as being otherwise significant by virtue of location on the ring plain or being riparian vegetation. Therefore the status quo is not an option, except in regard to the existing non-complying activity rules which have proven to be effective.

The discussion above under Indigenous Habitats is equally applicable for significant indigenous vegetation. Beyond that the following points are also noted.

SFMPs

Although the use of these as a permitted activity threshold is inadequate because of the lack of recognition of significance, there remains a need to recognise SFMPs for their role in meeting Section 7(b) of the RMA. Standards alone will not ensure the assessment and consideration of effects on archaeological sites and other significant areas primarily because of monitoring difficulties. There is also the added problem that there will never be absolute certainty that all of the significant sites have been identified.

Equally a controlled activity status for SFMPs is not appropriate as there may be locations, or parts of SFMP areas where any logging is inappropriate because of significance issues.

Therefore an appropriate approach may be to classify SFMPs as a limited discretionary activity with the discretions limited to:

- Compliance with standards, conditions and terms in Part B2 of the Plan
- location
- effects on Protected Areas
- effects on waterbodies
- effects on significant indigenous fauna or flora
- effects on heritage, archaeological sites, outstanding natural features and landscapes
- effects on the transportation infrastructure
- the payment of administrative charges
- the requirements of financial contributions
- the completion of works and services which may be, but are not limited to, those works and services detailed in Section C2 of the Plan

The existing information requirements could be added to with:

- a requirement for ecological assessment of the forest included in the area, including that subject to a SFMP.

This then allows logging of the forested areas in the eastern hill country whilst ensuring that the potential for conflict with significant areas is dealt with. In addition, because the exercise of SFMPs is almost the only development activity which occurs in these forested

areas, this provides a means of monitoring these areas which has been problematic to date. This would also serve to allow for the identification of further discrete significant indigenous forest areas.

It is also noted that almost none of the SFMPs established in the District have been established in compliance with the rules of the Stratford District Plan 1997 as almost all are adjacent to land within the Conservation estate and should therefore have required consent as a discretionary activity. Therefore very few have an existing use right under Section 10 of the RMA.

Areas of Significant Indigenous Vegetation

The Plan does not identify significant indigenous vegetation but does have rules relating to specific areas or situations where indigenous vegetation disturbance requires consent. These include the manuka clearance rules and rules relating to ring plain forest and riparian vegetation.

The manuka rules have been found to be largely ineffective. A possible alternative is to recognise manuka as being either immature or indigenous forest. Where it is immature it is then subject to the same rules as any other indigenous vegetation which has an average canopy height of less than 3m. If over 3m then it falls within the definition of indigenous forest and is treated accordingly. Any areas of manuka which are significant can also be approached in the same manner as other significant indigenous vegetation.

This would mean consents being required for the removal of manuka over 3m in height. These would be assessed as a non-complying activity if on the ring plain or within 20m of a water body, and as a discretionary activity otherwise. The removal of manuka under 3m in height, provided it is not associated with a Protected Area, significant habitat, water body etc., would be permitted.

This option would therefore see the removal of all of the rules relating to manuka.

In other respects the difficulties in the Plan in regard to significant indigenous forest are similar to those discussed under significant habitats of indigenous fauna. Therefore the recommended approach is to include significant indigenous vegetation in the provisions for significant indigenous habitats as described above. This then allows for the assessment of vegetation in response to consent applications and the possible identification of further areas of significance, in addition to the ongoing work through the regional councils.

PERMITTED ACTIVITY THRESHOLD

As discussed above the existing permitted activity thresholds relating to SFMPs and manuka are not appropriate and should be deleted.

The rule relating to specifically planted indigenous forest is appropriate provided that this does not include areas of significance or areas in close proximity to a water body.

The other threshold rule concerns the removal or trimming of vegetation in specific situations. This rule allows for the removal or trimming of any vegetation which is not included in the definition of “indigenous forest”. The intent of this is to allow normal farming practices to continue.

The problem with this is that it also potentially conflicts with provisions relating to protected trees as well as the rules requiring consent for the disturbance of indigenous vegetation in specified circumstances. The rule therefore requires amendment to ensure that these limited discretionary, discretionary and non-complying situations are excluded and would still require consent. In other circumstances, however, the removal of indigenous vegetation with an average canopy height of less than 3m would be permitted.

The existing thresholds for permitted activities do not place any limit on the area concerned, except insofar as the intention of the Plan was to permit the clearance of manuka up to a rate of 5ha in 5 years. Given that the destruction of manuka scrub periodically is one of the major identified activities involving indigenous vegetation and that there is no ability to assess the significance of such areas, there is a need to place some control on the activity. Any clearance rate limit is, however, almost impossible to enforce. The deletion of the manuka specific rules would see the destruction of manuka over 3m in height being a non-complying activity which would require ecological assessment. It may be necessary to augment this with a permitted activity status, which would relate to manuka up to 3m in height, to a maximum area of clearance although, again, this may be difficult to enforce and may not deal with significance effectively.

SUMMARY OF POTENTIAL RESPONSE FRAMEWORK

WETLANDS

Identification

- Regional surveys
- Schedule of wetlands

Preservation

- Non-regulatory use of covenants

Protection

- Discretionary Activity Rule requiring all activities within 20m of or within a wetland, whether or not it is previously identified, to be discretionary excluding those activities listed as a non-complying rule.
- Environmental Standard to include area within 20m of a wetland, whether or not it is identified.

SIGNIFICANT HABITATS (FAUNA & FLORA)

Identification

- Regional assessments
- No specific schedule

Protection

- Policy framework to include significant indigenous fauna as well as flora
- Method containing assessment criteria with trigger thresholds for significance
- Ecological assessments required for SFMPs
- SFMPs assessed as a discretionary activity.
- Information requirements, assessment criteria and methods requiring ecological assessments for discretionary and non-complying activities.
- Definition of Significant Indigenous Habitat
- Environmental Standard to include significant indigenous flora and fauna habitats.
- Non-Complying Activity Rules

INDIGENOUS VEGETATION ACTIVITIES

Permitted

- Indigenous forest planted specifically for harvesting except if involving limited discretionary, discretionary or non-complying activity
- Indigenous vegetation removal if less than 3m in height up to a stated area limit except if involving limited discretionary, discretionary or non-complying activity
- Indigenous vegetation removal for limited specified circumstances

Limited Discretionary

- SFMPs subject to ecological assessment

Discretionary

- Indigenous forest disturbance, indigenous vegetation disturbance or the harvesting of indigenous forest which is not provided for as a permitted or limited discretionary activity except those listed as non-complying activities.

Non-Complying

- Harvesting of indigenous forest in the ring plain
- Clearfelling of indigenous forest throughout the District
- Indigenous forest disturbance or indigenous vegetation disturbance within 20m of a water body

Notes:

- Ecological assessments would be required by the information requirements and assessment criteria for discretionary and non-complying activities by way of a stated method, and also by the specific discretions listed for Limited Discretionary Activities.
- The overall approach would be to not specifically identify significant natural areas. The intention is to allow farming practices and other necessary work to continue where these carry a low risk to the environment but to require any other indigenous vegetation activities to be subject to ecological assessment before approval.

WHERE TO FROM HERE

PROCESS

Feedback on this document will be used to contribute towards a formal analysis for a Plan Change under Section 32 of the RMA.

Drafting of the Section 32 Analysis and Plan Change Proposal will involve public meetings as well as further consultation with various interested conservation and industry groups. It is anticipated that these will occur in June and July 2010.

Council is aiming to have a Plan Change proposal resulting from the review out for public consultation from October 2010.

DISCUSSION DOCUMENT FEEDBACK

Comment is welcome on any of the contents of the discussion document. You may wish to draw attention to any omissions or errors in the information given. This may include any alternative suggestions for a general approach to the issues.

In particular Council is seeking feedback on the broad approaches suggested as being appropriate under the Potential Responses. Where there are additional potential risks with these proposals these should be identified.

CONTACT DETAILS

All comments must be in writing. There is no specific feedback form required. Correspondence is welcome either electronically or in hardcopy.

Please address all correspondence to:

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CLOSING DATE

28 May 2010