



Western Bay of Plenty District Council

Proposed First Review

Natural Environment Section Review SUMMARY DOCUMENT

Issues and Options Paper

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1. Introduction

1.1 Background

1.1.1 The Natural Environment Review consists of a review of the Natural Environment Section (Section 9) of the District Plan and also a review of the Protection Lot Rules which are located in the Rural Section of the District Plan (Section 2.5).

1.1.2 Natural Environment Section Background

The Natural Environment Section was originally notified with the District Plan in July 1994. It included a schedule and maps which listed 240 Significant Ecological Features along with associated rules for their protection. Through the public consultation process this was reduced to 107 sites and as a result of an Environmental Court hearing increased back to the current total of 175 sites (See 1.1 of full text document for details).

1.1.2 Protection Lot Rules Background

Up until the District Plan was notified in 1994 the District Council allowed rural subdivisions to occur as a result of legally and physically protecting areas of native bush on site. This was known as the 'bush protection rule' and allowed one additional lot for each 10 ha of bush protected.

1.1.3 Transferable Development Rights (TDRs) were introduced in 1997 for protection lot subdivisions, allowing owners of ecological features to sell their subdivision rights. The protection lot rule was also widened in 1997 to include additional feature types such as regenerating forest, riparian vegetation and wetlands.

1.2 Purpose

1.2.1 The purpose of this review is to ensure that the current Natural Environment Section is relevant and effective in achieving its purpose under Section 6(e) of the Resource Management Act 1991. This review also focuses on making sure the Section is up to date in light of the recent publications (see full text document for further information).

1.3 Consultation

1.3.1 A number of initial forms of consultation have been carried out for the Natural Environment Section and this includes:

- A review of recent and relevant publications
- An internal project team
- Consultation with Environment Bay of Plenty
- Consultation with rural stakeholders individually and at a combined rural stakeholders meeting
- A series of District Plan Hui

- 1.3.2 For more information in relation to the consultation that has taken place in the preparation of this document please refer to the full text version of the document.

1.4 Statutory Framework

- 1.4.1 The following Sections of the Resource Management Act 1991 are of relevance to this Section Review:

Section 6(c), Section 6(e), Section 7(d), Section 35 and Section 74(4).

- 1.4.2 More details relating to the statutory framework can be found in the full text version of this document.

1.5 Natural Environment Section

- 1.5.1 Currently the Natural Environment Section consists of 175 Significant Ecological Features covering an area of 17,451 ha and offers protection to these areas by making their removal a Discretionary Activity. It is important to note that the Natural Environment Section works in tandem with a number of non regulatory methods to enhance ecological protection. These include education, grants and subsidies for fencing along with further options for protection such as covenants.

2. Is the protection lot mechanism protecting ecological areas which are significant and under threat?

2.1 Discussion

- 2.1.1 Approximately half of the ecological features which have been protected under the protection lots rule are in areas that have not been identified as 'significant' in the District Plan (See Section 6.4 of full text document for more detail).

- 2.1.2 It is considered that many of these features not identified as 'significant' in the District Plan are not under immediate threat from removal. This is because these areas are often located on less productive and isolated land and on slopes greater than 15 degrees.

2.2 Option 1

- 2.2.1 Do nothing / Status Quo – the rules are effective in their current form.

2.3 Option 2

- 2.3.1 Some priority could be given to Significant Ecological Features identified in the District Plan in terms of the ability to obtain subdivisional opportunities. Options could include introducing a differential size requirement for features that are not listed in the District Plan. This could be specific to areas of tall forest which are already well represented in the protected areas network or it could relate to a number of the feature types.

3. Points of Action as a result of the Wairoa River Strategy should be included as part of the Natural Environment Review

3.1 Discussion

3.1.1 As a result of the Wairoa River Strategy a statutory action point was proposed. This required that as a condition of any subdivision consent for land adjoining the Wairoa River that an esplanade reserve/strip be set aside (See Section 6.8 of full text document for more detail).

3.1.2 Currently in the District Plan there is a rule that requires a width of 10 metres minimum to be vested in Council to provide for public access. This relates to the true left bank of the Wairoa River – the left bank when looking downstream.

3.2 Option 1

3.2.1 Do nothing / Status Quo – the current rule is sufficient

3.3 Option 2

3.3.1 Require a riparian area both sides of the Wairoa River for ecological benefit as opposed to solely public access.

4. Is the current set of criteria used to assess protection lot eligibility working and effective?

4.1 Discussion

4.1.1 Currently under the District Plan eligibility for a protection lot is based on the features ability to meet a set of ecological criteria listed in Section 2.5.3(b) of the District Plan. This criteria includes an assessment of the features representativeness, diversity and pattern, fragility and threat (See Section 6.9 of full text document for more detail).

4.1.2 The Bay of Plenty Regional Councils Change 1 to the Regional Policy Statement has introduced a set of criteria for assessing Indigenous Vegetation and Habitats of Indigenous Fauna. The District Council is required to 'give effect to' the Change 1 criteria.

4.1.3 On the advice of an Ecologist it is considered that the current criteria in the District Plan are consistent with those listed in Change 1 to the Regional Policy Statement.

4.1.4 It is considered however that as the Change 1 criteria has been developed more recently and is more detailed it could simply replace the current criteria.

4.2 Option 1

4.2.1 Do Nothing / Status Quo – the protection lot criteria is effective in its current form.

4.3 Option 2

4.3.1 Replace the current criteria for protection lots with the one developed by the Regional Council.

5. Are the minimum lot sizes for each feature to gain a protection lot still relevant?

5.1 Discussion

5.1.1 The minimum feature size to enable a protection lot is as follows:		Average required for multiple lots
- Tall forest (eg tawa, rimu)	2ha	5ha
- Regenerating/secondary forest (eg mahoe, kamahi, kanuka, tree fern)	5ha	10ha
- Secondary Shrubland	5ha	10ha
- Riparian margins (above MHWS)	500 m in length and min 20m wide	1km min 20m
- Natural Wetlands (above MHWS)	0.5ha	1ha

5.1.2 It was thought that the above minimum feature size should be reviewed as they have not changed since the District Plan was notified in 1994. The following issues are raised (See Section 6.9 of full text document for more detail):

- Since tall forest is well represented in the protected areas network (mostly administered by DOC), the minimum size for eligibility for a protection lot could be increased from 2 ha to 3 ha.
- Riparian Margins – it is unclear as to if the 20m width refers to both sides of the riparian margin or if 10m is required on each side to qualify. This needs to be clarified along with perhaps a minimum width of the river/stream around which a riparian margin can qualify.
- Also a comment was made in relation to the minimum wetland size of 0.5 ha. A wetland of this size is likely to be very vulnerable to external influences and would take a lot of energy to manage. In saying this, small wetlands do a remarkable amount of filtering. Owners should be encouraged to provide some buffering around wetlands with the width dependent on topography. This will increase its overall function.

5.2 Option 1

5.2.1 Do Nothing / Status Quo – the current minimum feature sizes are adequate.

5.3 Option 2

- 5.3.1 Increase the minimum feature size for tall forest and review the requirements around riparian areas. Also review the wetland requirements to allow wetlands of 0.5ha to gain a protection lot provided they have some buffering provided. Further options could include introducing a differential size requirement for features that are not listed in the District Plan over the ones that are listed (as outlined in 2.3.1 above).

6. Should the District Council acknowledge ecological restoration as a way to gain subdivisional opportunities?

6.1 Discussion

- 6.1.1 To date Council has been focusing on protecting Significant Ecological Features that currently exist in its district. Council also needs to focus on restoration as a way of creating additional ecological areas to contribute to increased biodiversity and ecosystem functionality (See Section 6.10 of full text document for more detail).

6.2 Option 1

- 6.2.1 Do Nothing / Status Quo – only existing natural areas are eligible for protection lots.

6.3 Option 2

- 6.3.1 Enable restored areas to gain subdivisional opportunities through the creation of protection lots. This would be provided that these areas are restored to a functioning level, along with a management plan. Each of these restored areas will need to be assessed on a case by case basis.

7. Can areas of land that have been flooded with sea water to create wetlands be eligible for protection lots?

7.1 Discussion

- 7.1.1 There have been a number of examples in the district where landowners have reopened stop banks on their property and allowed sea water to reclaim their land. This has the potential to create wetland environments and there have been requests as to whether these areas could be eligible for protection lots (See Section 6.10 of full text document for more detail).

- 7.1.2 There are a number of issues associated with this which include the following:
- That much of this land was reclaimed originally through the creation of stop banks.
 - That once MHWS has changed location then the area of land that has been filled with sea water becomes the property of the crown and is no longer within Councils jurisdiction.
 - Many of these areas will need active management to get to a sustainable level, mangrove infestation is common and while they would be good

feeding areas for birds before the mangroves establish afterwards they are of less value.

7.2 Option 1

7.2.1 Do Nothing / Status Quo – only existing natural areas are eligible for protection lots.

7.3 Option 2

7.3.1 Develop some rules around allowing these areas to be eligible for protection lots and therefore subdivisional opportunities.

8. If identified should additional areas deemed to be significant be added to the District Plans Schedule of Significant Ecological Features?

8.1 Discussion

8.1.1 The Department of Conservations Protected Natural Areas Programme has identified the most representative examples of unprotected ecosystems within the Otanewainuku Ecological District. This ecological district lies partly within the Western Bay of Plenty District. Many of these areas are already listed in the District Plans Schedule of Significant Ecological Features, however it was found that 4122 ha or 25% of these Recommended Areas for Protection (RAP) are not currently listed in the District Plan (See Section 6.6 of full text document for more detail).

8.2 Option 1

8.2.1 Do Nothing / Status Quo – The identified features listed in the District Plan are sufficient.

8.3 Option 2

8.3.1 Provide a voluntary option for landowners that have RAP areas on their property to have these additional areas included in the District Plan should they wish. This would mean the rules contained in the Natural Environment Section will apply to these areas. Benefits may also arise in terms of priority for protection lots (See 2.0 of this report).

9. Can activities carried out adjacent to Significant Ecological Areas have negative effects on that feature?

9.1 Discussion

9.1.1 Currently you are able to carry out any activity that is Permitted or has Resource Consent adjacent to or along side a Significant Ecological Feature. Also through creating a protection lot onsite new lots are able to be created around the protected feature. Activities carried out on the resultant titles can potentially have negative effects on the adjoining protected feature. An example might be a dwelling which is located

close to a Significant Ecological Feature. This may increase the likelihood of invasion by exotic weed and pest species, or increase the amount of run off into a wetland or riparian environment through increased stormwater (See Section 6.11 of the full text document).

9.2 Option 1

9.2.1 Do Nothing / Status Quo – the rules are effective in their current form.

9.3 Option 2

9.3.1 A buffer zone could be created around the Significant Ecological Features as listed in the District Plan in order to avoid potential negative effects on these features.

9.4 Option 3

9.4.1 Domestic pets on areas adjoining managed significant ecological features, such as the Otanewainuku Kiwi Trust could be controlled within these buffer areas.

9.5 Option 4

9.5.1 A combination of Options 2 and 3 above.

10. Are some rules listed in the Natural Environment Section hard to understand for those who use the District Plan?

10.1 Discussion

10.1.1 Currently in the Natural Environment Section Permitted Activities are "*Those activities listed as permitted (or controlled) in the respective zone*". This means you have to check what is permitted in the underlying zone and also check that it is not listed as a Discretionary Activity in the Natural Environment Rules. It is considered it would be much clearer if the Permitted Activities were specifically listed (See Section 6.1 of full text document for more detail).

10.1.2 Farming would currently be a Permitted Activity within Significant Ecological Features. It is considered that new farming activities should be Discretionary Activities as existing use rights for farming still apply (See Section 6.1 of full text document for more detail).

10.1.3 Rule 9.3.1(c) is confusing in that it relates to removing exotic species from Significant Ecological Features and that natives under 6m can be removed in order to provide access to these exotics to enable their removal. The rule as it is currently written could be misinterpreted (See Section 6.2 of full text document for more detail).

10.1.4 While there is a reference in the District Plan to the Forests Amendment Act 1993 there is no reference to the Environment Bay of Plenty Water and Land plan – this is also relevant in terms of vegetation removal (See Section 6.3 of full text document for more detail).

10.2 Option 1

10.2.1 Do Nothing / Status Quo – the rules are effective in their current form.

10.3 Option 2

10.3.1 Amend Permitted and Controlled Activity rules so that they specifically list what is permitted in the Natural Environment Section.

10.3.2 Add Farming as a Discretionary Activity.

10.3.3 Amend Rule 9.3.1(c) so it is clear that this is to remove exotic plant species and that a maximum amount of natives under 6m can be removed to enable access to these exotic species.

10.3.4 Create a reference in the District Plan to the Environment Bay of Plenty Water and Land Plan.

10.4 Option 3

10.4.1 A combination of the above options.