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Response Date	Aug 31 22
Notes	
Q1	Select the chapter you want to provide feedback on
Q2	In general, to what extent do you support the contents of this chapter?
Q3	Objective/Policy/Rule/Standard reference:
Q4	Feedback/Comments
Q5	Objective/Policy/Rule/Standard reference:
Q6	Feedback/Comments
Q7	Objective/Policy/Rule/Standard reference:
Q8	Feedback/Comments
Q9	Objective/Policy/Rule/Standard reference:
Q10	Feedback/Comments
Q11	supporting documents?
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Q12	If you need more space, or have any other general comments, please leave them here

31 August 2022



**Forest & Bird**

TE REO O TE TAIAO | *Giving Nature a Voice*

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## **Feedback on the 'Draft Waitaki District Plan' – Waitaki District Plan Review**

### **FOREST AND BIRD COMMENTS:**

#### **Introduction**

Thank you for the opportunity to provide comments and feedback on the Draft Waitaki District Plan.

The Royal Forest and Bird Society of New Zealand (commonly known as 'Forest and Bird') are Aotearoa New Zealand's leading independent conservation organisation, which has played an important role in preserving New Zealand's environment and native species since 1923.

Forest and Bird are independently funded by private subscription, donations, and bequests.

Forest and Bird's mission is to protect New Zealand's unique ecological values, flora and fauna, and natural habitat through the sustainable management of indigenous biodiversity (IB), natural landscapes, rivers, lakes, and coastal environments.

Forest and Bird are staunch defenders of RMA and other legislative/regulatory requirements to sustain the life-supporting capacity of ecosystems, maintain biodiversity and protect significant indigenous vegetation and significant habitat of indigenous fauna.

Forest and Bird are key participants in local, district and regional planning and consenting decisions relating to environmental management, biodiversity and climate change across Aotearoa New Zealand.



Forest and Bird have a volunteer branch in Waitaki, and their comments have been included within this feedback document.

### **General/overall comments**

- 1.1 Forest and Bird are pleased to see the proposed recognition and associated protections for ecosystems and indigenous biodiversity, natural character, and natural features and landscapes. We consider this a bare minimum and hope the proposed District Plan when developed will retain the areas shown in draft, and that through your consultation, additional areas may be recognised and added.
- 1.2 Forest and Bird encourage Council to fully resource the implementation and enforcement of the measures proposed, as the plan will only be effective if monitored and enforced where and when necessary.
- 1.3 In carrying out its responsibilities for protection of SNAs and functions for maintenance of indigenous biodiversity the Council must ensure the Plan provisions for vegetation clearance are not more lenient than the NES for Freshwater.
- 1.4 It is positive to see climate change acknowledged throughout the document as a reality, and something that it must be considered in any forward planning. The focus on adaptation however misses the opportunity to voice how Council's approach to land management can have a role in limiting climate change. For instance, the eradication of pests from areas of native forest to allow these areas to regenerate and absorb as much carbon as possible<sup>1</sup>.
- 1.5 The general provisions outlined in the Coastal Environment section are positive for protecting Waitaki's unique coastal environments and associated habitats, eco-systems and species. What happens on the land will impact the marine environment, so we encourage Council to take an active role in managing coastal land for marine protection and the benefit that brings to the environment and people.
- 1.6 It is encouraging to see the intention of prohibiting the planting of pest species, and making the removal of pest species within riparian areas a permitted activity.
- 1.7 Forest and Bird support the inclusion of the national priorities for protection regarding indigenous vegetation, especially regarding sand dunes and wetlands.

### **Part 1**

#### **2. List of overlays**

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<sup>1</sup> <https://www.rnz.co.nz/news/national/444985/pests-destroying-native-ecosystems-ability-to-store-carbon-forest-and-bird>



2.1 Forest and Bird commend Waitaki District Council at the early inclusion and identification of Significant Natural Areas in the new District Plan, as required by section 3.8 of the National Policy Statement for Indigenous Biodiversity (NPS-IB).

### **3. National Direction Instruments**

3.1 The exposure draft National Policy Statement for Indigenous Biodiversity (2022) has not specifically been mentioned as one of the National Policy Statements which was taken into account as part of the review, which is assumed due to the NPS-IB not yet being recognised as official government policy. However, it seems like some of the District Plan has taken this into account, therefore Forest and Bird feel the exposure draft should be recognised as one of the national direction instruments.

### **4. Strategic Direction**

4.1 Forest and Bird support the inclusion of the natural environment strategic objectives, particularly SD-NE-01 Natural character, landscapes and features and ecosystems and the inclusion of biodiversity values within objective SD-NE-02 Ōamaru Harbour.

4.2 Objective SD-RREE-03 states ‘use our energy resources efficiently in how we live, work and move through the district’, however this objective is not referred to anywhere else in the plan, nor are the words ‘energy efficiency’. Because of this RMA section 7 ‘Other matters’ (ba) ‘the efficiency of the end use of energy’ is not adequately addressed, and there should be more in the plan to achieve this objective or refer to it. Forest & Bird would be keen to see energy efficiency extend beyond electricity usage to the consideration energy efficiency in transport mode options and travel distance when considering the location and design of subdivision and commercial developments.

## **Part 2**

### **5. Energy, Infrastructure and Transport**

#### **5.1 Energy**

5.1.1 Forest and Bird support the promotion of renewable energy alternatives, and the move away from high-emission/carbon-based energy sources.

5.1.2 ENG-P6, ENG-P8 and ENG-P9 suggest offsetting or environmental compensation as a method of mitigating adverse environmental effects. Forest and Bird would hope that the council uses its discretion wisely when consenting these types of activities, and that offsetting is considered only when in situ or adjacent to the area affected. Offsetting at a different location is unlikely to be able to replicate all such aspects of the original area. There will be



cases where the indigenous biodiversity at risk is so significant that it should not be significantly modified or destroyed under any circumstances (other than when necessary for avoiding risks to human health and safety). In such cases offsetting cannot be considered as a means of environmental compensation for adverse effects.

- 5.1.3 ENG-P10 requires that during or following decommissioning of renewable electricity generation structures, that the area is remediated, but it does not specify a state of remediation (just the removal of surface equipment, surfacing etc). Forest and Bird would like to see these sites remediated to ‘as close to pre-activity levels as possible’, including replanting of native flora etc.
- 5.1.4 Agree that ENG(WPS)-O2 - protecting the overlays in which the Waitaki Power Scheme is located are protected and not degraded (SNA’s etc) is required in the District Plan.
- 5.1.5 The subsequent policies (ENG(WPS)-P3 and ENG(WPS)-P4) which require the remediation, mitigation, offsetting or compensation from maintenance activities and enhancement of the Waitaki Power Scheme is good provided that our previous comments in point 4.1.2 of this feedback regarding offsetting/compensation is considered.

## 5.2 Infrastructure

- 5.2.1 INF-P19 (upgrades to existing and new infrastructure in the Coastal Environment) suggests avoiding significant adverse effects, and remedying or mitigating other adverse effects on:
  - a) any indigenous vegetation that is not part of a Significant Natural Area;
  - b) the landscape values of Natural Features and Landscapes that are not identified as outstanding; and
  - c) any other areas of natural character within the Coastal Environment.

However, it does not consider significant effects to marine mammals, aquatic birds or other aquatic fauna and their habitats. Forest and Bird would like these included.

- 5.2.2 Forest & Bird would like to see that all permitted rules for all infrastructure (three waters, transport, communications, energy generation and distribution networks), including new Regionally Significant Infrastructure (RSI), include conditions which exclude and set back activities from the identified SNA overlay areas and the areas and sites set out on the Outstanding Natural Character (ONC), Outstanding Natural Feature (ONF) and Outstanding Natural Landscape (ONL) overlays. Forest & Bird will consider provision for maintenance and minor upgrading within SNAs as a permitted activity where this relates to lawfully established infrastructure and where the rules include appropriate limits.



- 5.2.3 Forest & Bird supports a strategic approach to transport planning, however, provisions for location of new activities and any change in scale for maintenance or upgrading of lawfully established activities need to recognise potential for adverse effects and provide for protection and maintenance of ecosystems and indigenous biodiversity.
- 5.2.4 Transport infrastructure including new, replacement and realignment of roads needs to consider opportunities to provide for management retreat of indigenous biodiversity where effects of sea level rise would result in loss of habitat between roads and the Coastal Marine Area (CMA).
- 5.2.5 As currently drafted it is difficult to determine whether ecosystems and indigenous biodiversity are appropriately protected and maintained when considering infrastructure activities. Forest and Bird would encourage that biodiversity, ecosystems and habitats are used as a matter of discretion when assessing any activity which does not have permitted status.
- 5.2.6 Forest and Bird support objective STORM-P3 – water sensitive design, and its promotion of nature-based solutions for stormwater management, and stormwater re-use for non-potable purposes. It is hoped that the Council will use this method of stormwater management and overland flow paths as a default position when assessing development and stormwater management plans.

### 5.3 Hazards and Risks

- 5.3.1 HAZS-P5 requires that hazardous substances are used, stored or disposed of outside significant area boundaries. Forest and Bird suggest that these are amended to have a set-back from these areas, so the activity is unable to be undertaken directly beside the boundary of SNAs, Coastal Environment and so on.
- 5.3.2 NH-P3 promotes a risk-based approach to avoid subdivision, use and development in areas where natural hazards may occur. Forest and Bird suggest that these types of activities should be set back adequately and appropriately to allow rivers and streams to flood naturally, especially where these features have been modified to not follow their natural flow path, even if they are ephemeral or have intermittent flow<sup>2</sup>.
- 5.3.3 Forest and Bird support NH-P5 – the use of natural features and systems as buffers for protection of natural hazard risk, nature-based solutions.

### 5.4 Historical and Cultural Values

<sup>2</sup> <https://www.forestandbird.org.nz/resources/making-room-rivers>





- 5.4.1 The Sites and Areas of Significance to Māori section identifies the cultural significance of waterbodies and other natural areas, effects of vegetation clearance, earthworks and run off, and the customary practice of mahika kai.
- 5.4.2 Forest and Bird are pleased with the policy requiring mana whenua involvement in the resource management process, the management of wāhi tupuna and encouraging restoration and enhancement of indigenous habitat that supports mahika kai.
- 5.4.3 Forest and Bird support the prohibition of planting wilding conifer species in mahika kai areas, however we would like to see all planting of wilding conifer species prohibited except for commercial forestry where they can be adequately controlled.

## 5.5 Natural Environment Values

- 5.5.1 Forest and Bird applaud the Council for the work which has been undertaken to identify and map SNAs to date. We encourage the Council to continue this work (as intended) and update the schedules and overlay map/s to protect these areas and resources.
- 5.5.2 Forest and Bird support the inclusion on non-regulatory methods (incentives, educating the public and advocacy) for the protection, maintenance and enhancement of biodiversity, and hope that the Council will invest resource into ensuring this takes place.
- 5.5.3 Forest and Bird consider that policy direction for protection needs to be extended to all areas meeting the significance criteria of the applicable Regional Policy Statement (RPS), not just those identified in the SNA overlay. ECO-P5 - managing indigenous vegetation outside Significant Natural Areas attempts this, but only covers vegetation and not native fauna or biodiversity.
- 5.5.4 Forest & Bird is concerned that the section lacks adequate provision for indigenous biodiversity beyond the identified SNA overlay areas and thus fails to:
- Protect significant indigenous biodiversity beyond those identified areas;
  - Maintain indigenous biodiversity, including the natural genetics of the district; and
  - Include direction for considering restoration and enhancement opportunities in consenting processes.
- 5.5.5 The protection for 6(c) RMA indigenous biodiversity is to be afforded all areas that meet the criteria as set out in the RPS and within the coastal environment to all matters specified in Policy 11 of the New Zealand Coastal Policy Statement (NZCPS). Forest and Bird support the identification and use of an overlay for known sites as this significantly improves the ability for council to carry out its responsibilities and functions. However, limiting the policy



direction and rules to identified SNA overlay areas does not give effect to these higher order provisions.

5.5.6 Policy direction for the maintenance of indigenous biodiversity is needed, as are rules which trigger a consenting requirement under which an ecological assessment should be carried out (this is a requirement for earthworks in an SNA in this chapter, but no other activity). An ecological assessment at the time of consent gives the most up-to-date information on ecological values present and can be used to determine if any indigenous biodiversity meets the criteria for significance in the RPS, whether the proposal is consistent with protection of those values and enable consideration of other indigenous biodiversity values, so that the maintenance of indigenous biodiversity can be achieved.

5.5.7 In addition, Forest & Bird consider that the rules as currently drafted are inadequate to protect the indigenous biodiversity within SNA overlay areas, as they fail to:

- Implement Councils responsibility for protection under the RMA within areas subject to covenants;
- Restrict the clearance of non-indigenous vegetation within SNAs;
- Exclude the establishment of unnecessary new fences that would exacerbate adverse effects on the SNA including from opening the canopy to pest species;
- Provide direction for appropriate fencing which includes setbacks for generous buffers and avoids fragmentation of SNAs;
- Ensure activities are set back from wetlands that are within an SNA;
- Include appropriate limits to earthworks within an SNA which may have different adverse effects than indigenous vegetation clearance.

5.5.8 As earlier in the energy section, the option of offsetting is required for where avoidance or mitigation is not practicable or possible. Forest and Bird would hope that the council uses its discretion wisely when consenting these types of activities, and that offsetting is considered only when in situ or adjacent to the area affected. Offsetting at a different location is unlikely to be able to replicate all such aspects of the original area. There will be cases where the indigenous biodiversity at risk is so significant that it should not be significantly modified or destroyed under any circumstances (other than when necessary for avoiding risks to human health and safety). In such cases offsetting cannot be considered as a means of environmental compensation for adverse effects.





- 5.5.9 ECO-R3 allowing earthworks within a SNA should include a volume limit and be changed to a discretionary status requiring the applicant to provide an earthworks management/control plan.
- 5.5.10 ECO-R4 states that exotic plantation forestry adjacent to a SNA is restricted discretionary, with a setback of 100m. This setback should be increased to 250m as natural seed dispersal can easily travel 100m.
- 5.5.11 ECO-R5 - plantation forestry, agricultural intensification, quarrying or mining activities within an SNA should be a prohibited activity, rather than non-complying.
- 5.5.12 There is no mention of dead trees in indigenous vegetation clearance policy/rules. Dead trees can provide important habitats to indigenous species and play a key role in ecological function of indigenous biodiversity. Some dead trees may even be significant in terms of habitat. It is uncertain at what point the removal of one more tree could have adverse effects of function and habitat values. The vegetation clearance considered “necessary” is open to interpretation and is not enforceable as a limit to clearance for this purpose. Forest and Bird ask that the Council include mention of dead trees in SNAs and their importance as a habitat.
- 5.5.13 Forest & Bird seeks provisions to restrict the establishment of new native tree plantation forestry to protect the local natural gene pool of native tree species. This means that indigenous species used for forestry need to have plant material sourced within 60 km or whatever is closest. Cross pollination would otherwise occur on such a large scale that it would change the genetics of species native to the area.
- 5.5.14 Forest & Bird also considers that there needs to be some consideration of how indigenous vegetation adjacent to wetlands is managed in the Plan. This is an area where there is a close relationship with Regional Council functions for the maintenance of indigenous biodiversity in water bodies, including wetlands. There is now an overlap between District Council functions for the maintenance of indigenous biodiversity and Regional Council implementation of the NES for Freshwater, which includes regulation of a setback distance of vegetation clearance adjacent to wetlands.
- 5.5.15 In carrying out its responsibilities for protection of SNAs and functions for maintenance of indigenous biodiversity the Council must ensure the Plan provisions for vegetation clearance are not more lenient than the NES for Freshwater.
- 5.5.16 Forest and Bird support the objectives and policies proposed to protect riparian margins and their restoration and enhancement.



5.5.17 Forest and Bird support the prohibition of pest species planting within a riparian margin, and enabling removal of pest species/organisms.

5.5.18 Forest and Bird agree with the statement that ‘natural character is highest where there is least modification to the natural environment’, this is also true of ecosystems and habitat.

5.5.19 Forest and Bird are supportive of the objectives and policies to protect natural features and landscapes, as these are often hot spots of biodiversity.

## 5.6 Subdivision

5.6.1 This section was not assessed

## 5.7 General District Wide Matters

### 5.7.1 Activities on Surface Water

5.7.1.1 Forest and Bird are supportive of the policies requiring adverse effects on natural environmental values are avoided or mitigated and that science and monitoring is provided for (including pest control).

5.7.1.2 ASW-P7 provides for the management of adverse effects on salmon and trout spawning habitat/values, mahika kai species and SNAs, but does not provide for other indigenous aquatic species (flora and fauna), or species that use these environments for breeding, feeding etc. – these should be included.

### 5.7.2 Coastal Environment

5.7.2.1 Forest and Bird are pleased with the inclusion of ecosystems and indigenous biodiversity in the coastal environment in the Plan and the inclusion of a ‘no loss’ objective for indigenous biodiversity (CE-O4).

5.7.2.2 It would be helpful to explain the aspects of the NZCPS as they related to the Council’s functions, identifying those that are given effect to through provisions in this chapter or where they are in other chapters of the plan.

5.7.2.3 Forest & Bird considers that the term “development” must also be specified in the provisions which refer to ‘subdivision’. Development is specifically referred to in the NZCPS.

### 5.7.3 Earthworks

5.7.3.1 This section has not been assessed thoroughly, but Forest and Bird seek that the location and/or scale of earthworks activities is assessed and controlled to protect and maintain indigenous biodiversity, ecosystems and natural character/environment.



5.7.3.2 In relation to mining, EW(M)P3 states that mining activities can be undertaken in the General Rural Zone provided that the activity internalises adverse environmental effects as far as practicable using industry best practice and management plans, including monitoring and self-reporting. Forest and Bird would like the wording of this changed to 'the activity ~~internalises~~ *avoids, mitigates or remedies* adverse environmental effects as far as practicable using industry best practice and management plans, including monitoring and self-reporting.

5.7.4 **Light, noise, Papakāika, Signs & Temporary Activities**

These sub-sections have not been assessed.

5.7.5 **Zones, Precincts and Designations**

These subsections have not been assessed; however, Forest & Bird seeks that any objective or policy setting out the purpose of the zone includes recognition of the ecological context of the zone and the importance of maintaining indigenous biodiversity values. This approach is necessary to improve consistency and reduce the chance of conflict where provisions in the zone chapters enable or provide for activities on the basis that they achieve the purpose of the zone.

Thank you for the opportunity to provide comment on the draft District Plan. I hope you find our comments helpful and constructive as they are intended.

We would be happy to discuss these matters further should you wish to do so.

Ngā Mihinui



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