

Introduction:

My name is Isaac McIntyre. I am employed by Federated Farmers of New Zealand. I am a Senior Policy Advisor based in Hamilton, I am authorised to speak on behalf of Federated Farmers (the Waikato Province) that represents and supports farmers across key rural sectors, including arable, meat and wool, dairy, and rural butchery.

My qualifications and experience are set out in sections 2 & 3 of the joint statement.

The hearing statement has been prepared jointly because Federated Farmers and NZKGI raise overlapping issues in relation to PC25.

Federated Farmers and NZKGI support PC25 in principle. However, we believe the section 42A recommendations are too restrictive, particularly those standards related to setback and height which go beyond what is necessary to manage environmental effects.

Rebuttal Response

Purpose of my evidence

I acknowledge that the document submitted by NZKGI and Federated Farmers has been referred to as a “hearing statement”. That wording was deliberately used by myself as I am not employed as a Planner by Federated Farmers (I am a Senior Policy Advisor) giving an advocacy opinion on behalf of Federated Farmers. I apologise for any confusion this may have caused.

Scope of Submissions

We accept that our joint statement at the hearing needs to remain within the scope of the original submissions. Our understanding is that the relevant question is whether our statement and relief are fairly and reasonably raised by the original submissions, and whether any other party would be prejudiced because they did not have an opportunity to further submit.

There is a two staged test when discussing specific relief in any submitted evidence as follows:

- 1 - Oral or written evidence at a council hearing must remain within the "scope" of the original written submission. If the original submission broadly discusses the topic, then discussing a specific rule later at the hearing is generally permissible as elaboration.
- 2 – It is only permissible, provided it does not introduce an entirely new form of relief.

The Rebuttal Evidence challenges the scope of our Hearing Statement as follows:

Rule 4.4.1.3.o – The Rebuttal evidence is correct. Federated Farmers did not submit on this specific rule, while NZKGI supported the rule as drafted. Although both original submissions referred to shelterbelts as a means of mitigating the visual effects of ACPS, neither sought deletion of the rule.

Accordingly, the relief sought in paragraphs 59 and 97(d) is new relief that goes beyond the scope of the original submissions. Other submitters therefore did not have an opportunity to respond to that relief by way of further submission. We accept Waipa’s rebuttal evidence on this point and agree that the relief sought cannot be pursued.

Rule 4.4.2.57A – We accept that neither Federated Farmers nor NZKGI sought specific relief in their original submissions regarding the wording of the rule. However, the proposed amendment simply seeks to address a wording inconsistency and confusion.

Rule 4.4.57A currently refers to “property boundary” in relation to height but “internal boundary” in relation to setbacks. The proposed change is intended to provide consistent terminology and clarify that the height and setback requirements do not apply where the adjoining property is held in the same ownership.

Given that Council, Federated Farmers and NZKGI agree on the intent of the rule, we consider the amendment to the wording does not seek new relief, alter the substantive outcome of the rule, or prejudice other parties. Rather, it provides greater clarity and consistency for users of the District Plan.

Rule 4.4.2.88 – The Rebuttal Evidence states that Clause B of paragraph 63 falls outside the scope of NZKGI’s original submission. We consider clause b is generally captured within the scope of NZKGI’s original submission which allows our Statement to address specific dimensions stipulated in Clause B.

Section 4 of NZKGI’s original submission seeks no road boundary setback shall apply to a structure that uses black or green cloth on vertical faces.

Furthermore, NZKGI’s original submission (sections 26, 27 & 29) does seek relief from the reliance on yard setbacks through the inclusion of colour controls.

This relief would not prejudice other parties as NZKGI’s original submission raised relief on yard setbacks as a primary means of mitigation by using other methods such as colour controls to mitigate adverse effects. The original submission did enable other submitters to make a further submission on that relief.

The rebuttal evidence states that parts of **clause (c)** are not within scope of relief sought in the original submission. We consider clause c is generally captured within scope of NZKGI’s original submission.

Section 4 of NZKGI's original submission seeks a 6m setback when a neighbouring dwelling is located within 12m of the boundary otherwise no setback is required. Paragraph 63C of the Hearing Statement seeks a 5m setback. This is a typo and should be 6m as sought in NZKGI's original submission.

Furthermore Section 55 of NZKGI's original submission seeks no boundary setback for Artificial Crop Protection Structures and that setbacks should only apply where an existing residential building is located close to a boundary. Again, the scope of relief regarding no setbacks has been addressed in NZKGI's original submission and allowed other submitters to make a further submission on that relief.

Environment Court Consent Order

We recognise that the consent order referred to in our statement is a formal order of the Environment Court that approves an agreement reached by parties. It is legally binding, but it is technically an endorsement of a private settlement rather than a judicial decision or determination made on the merits after a contested hearing before the Court itself.

We acknowledge the error. The Consent Order was intended to provide an example of provisions in other districts that have dealt with Artificial Crop Protection Structures.

I will now speak to my main points of the shared Statement

Heights - Federated Farmers and NZKGI seek a 9m permitted height limit for ACPS. Several District Plans allow ACPS between 9 – 15m, with some plans having no height limit. The proposed 6m limit is considered overly restrictive, particularly given technological advances such as drone spraying support greater productivity on the same land footprint by advancing crops up and using less land area.

It should be noted that the Operative Waipa District Plan allows buildings up to 12m high (which includes ACPS). This sets a permitted baseline of 12m when considering resource consents. A permitted height of 9m for a permeable structure would do not create the same shading effects as conventional buildings no create bulk and location effects like a permeable building. They are merely tall wooden structures with netting often in natural colours such as green and black which further allow them to assimilate into the rural environment.

The 6m ACPS height limit is inconsistent with the NPS-HPL, particularly Policy 9, which requires reverse sensitivity effects to be managed so they do not constrain primary production on highly productive land. Prioritising visual amenity over the productive use of rural land would unnecessarily restrict farming activities and economic benefits. The same principle applies to shelterbelts.

Shelterbelts: Federated Farmers and NZKGI seek a 9m permitted height limit, consistent with the proposed ACPS height. Shelterbelts are important to primary production, providing protection for livestock from extreme weather, supporting animal health and productivity, and protecting orchards and ACPS from wind damage. They are also a normal and important feature of rural landscapes throughout NZ.

Rather than restricting shelterbelt height to 6m based on historic rules since 1997, we consider that increased heights are necessary to support modern farming practices and provide adequate livestock shelter and protection for crops. 6m is the shortest height of for a shelterbelt that I have found in any district plan and the justification for this height is not strong.

The Waikato District Plan has no shelterbelt height limit, which recognises that shelterbelts are part of the rural landscape. Any potential effects on adjoining properties, such as shading, should instead be managed through the proposed relief we seek in s57 of the Hearing Statement which refers to an Operative Waikato District Rule.

I will now hand over to Simone who will speak on behalf of NZKGI

Conclusion:

Federated Farmers and NZKGI request that the Hearing Panel:

reject the section 42A recommendation to retain the proposed 6m road boundary setback for ACPS and crop support structures under Rule 4.4.2.1(c), and replace it with the targeted setback and colour approach set out in this evidence;

reject the section 42A recommendation to retain the proposed 6m internal boundary setback for ACPS and crop support structures under Rule 4.4.2.2(d), and replace it with a targeted internal boundary setback that applies only where an ACPS is located close to an existing dwelling on an adjoining site;

reject the section 42A recommendation to retain the proposed 6m height limit for ACPS under Rule 4.4.2.9A, and replace it with a permitted height standard of 9m;

amend Rule 4.4.2.57A to provide for a more practical shelterbelt rule, including a 9m permitted height and 3m setback standard for new shelterbelts; and

consolidate the ACPS provisions within Rule 4.4.2.88, so that the relevant setback, height and colour standards are located in one clear rule for plan users.

Overall, Federated Farmers and NZKGI seek targeted amendments that would make PC25 simpler, clearer and more workable. Those amendments would still manage legitimate effects on rural character, amenity, road safety, infrastructure and sensitive activities, but would avoid unnecessarily constraining productive rural land.

For those reasons, we request that the Hearing Panel adopt a more practical and targeted effects-based rules for ACPS, crop support structures and shelterbelts, consistent with

the purpose of PC25, the productive function of the Rural Zone, and the direction of the NPS-HPL.

This concludes my summary, and I am happy to take any questions from the panel.

NOTES for inconsistent wording

Note:

The rule currently reads as:

*4.4.2.57A(a) the maximum height of a shelterbelt planted (operative date) shall be 6m above ground level within 20m of a **property boundary***

*4.4.2.57A(c) the minimum setback of a shelterbelt planted after (operative date) from an **internal boundary** shall be 3m unless:*

i. it adjoins a site held in common ownership.

4.4.2.57A(e) Shelterbelts planted after (operative date) shall be maintained by the owners at all times so that:

*i. No vegetation (branches/limbs) extend over **property boundaries** or roads; and*

*ii. Any vegetation (branches/limbs/trimmings/fallen trees) that falls onto **adjoining sites** is removed.*

*iii. All maintenance activities (such as trimming to maintain the height and width) occurs within the boundaries of the **site** within which the shelterbelt is located.*

We propose the following wording:

4.4.2.57A(a) the maximum height of a shelterbelt planted (operative date) shall be 9m above ground level within 20m of an internal boundary unless:

i. it adjoins a site held in common ownership.

4.4.2.57A(c) the minimum setback of a shelterbelt planted after (operative date) from an internal boundary shall be 3m unless:

i. it adjoins a site held in common ownership.

.....

4.4.2.57A(e) Shelterbelts planted after (operative date) shall be maintained by the owners at all times so that:

- i. No vegetation (branches/limbs) extend over property boundaries or roads; and
- ii. Any vegetation (branches/limbs/trimmings/fallen trees) that falls onto adjoining sites is removed.
- iii. All maintenance activities (such as trimming to maintain the height and width) occurs within the boundaries of the site within which the shelterbelt is located.

i.v) Rule 4.4.2.57e (i – iii) does not apply to adjoining sites held in common ownership with the subject site.