

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2020-AKL-000102

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

IN THE MATTER of the Resource Management Act 1991 (the Act)

AND

IN THE MATTER of an appeal under clause 14 of Schedule 1 of the Act
against the decision of the Waikato Regional Council on
Proposed Plan Change 1 to the Waikato Regional Plan

BETWEEN **FEDERATED FARMERS OF NEW ZEALAND
INCORPORATED**

Appellant

AND **WAIKATO REGIONAL COUNCIL**

Respondent

**NOTICE BY SOUTH WAIKATO DISTRICT COUNCIL TO BECOME A PARTY TO
PROCEEDINGS UNDER SECTION 274 OF THE ACT**

Dated 28th September 2020

TOMPKINS | WAKE

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TO: The Registrar
Environment Court
Auckland

1. **SOUTH WAIKATO DISTRICT COUNCIL** (“SWDC”) gives notice under s 274 of the Resource Management Act 1991 (“the Act”) that it wishes to be a party to these proceedings, being *Federated Farmers of New Zealand Incorporated v Waikato Regional Council* ENV-2020-AKL-000102 (“the Appeal”).
2. The Appeal challenges the decision by the Respondent on Proposed Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments to the Waikato Regional Plan as amended by Variation 1 (“PC1”).
3. SWDC is a local authority and a person who made a submission about the subject matter of the proceedings (Objectives, Policy 2, Policy 8 insofar as it relates to Objective 3, matters of offsetting, land use change provisions, sub-catchment management planning). SWDC is interested in the use of wetlands for its infrastructure (infrastructure wetlands) with regard to Policy 17.
4. SWDC is not a trade competitor for the purposes of sections 308C or 308CA of the Act.
5. SWDC is interested in those parts of the Appeal relating to:
 - (a) Objective 2 and Table 3.11-1;
 - (b) Objective 3;
 - (c) Policy 2;
 - (d) Policy 5;
 - (e) Policy 7;
 - (f) Policy 8;

- (g) Policy 17;
 - (h) New Method 3.11.3.2A;
 - (i) Method 3.11.3.3;
 - (j) Rule 3.11.4.9;
 - (k) Table 3.11-1;
 - (l) Table 3.11-2; and
 - (m) Table 3.11.3.
6. SWDC's position on the Appeal and the reasons for that position are set out in respect of each part of the Appeal below. For brevity, the description of the relief sought is paraphrased in this notice.

Objective 2 and Table 3.11-1

7. The Appeal seeks to amend both Objective 2 and Table 3.11-1 to:
- (a) Ensure that the focus is on implementing actions such as the adoption of Farm Environment Plans ("FEP") (that will assist to achieve the short-term numeric water quality values in Table 3.11-1), but not necessarily all the actions within those FEPs, within 10 years after Chapter 3.11 is operative; and
 - (b) Ensure that the short-term attribute state are based on 10% of the 80 year targets as opposed to 20%.
8. SWDC supports in part the relief sought by the Appellant for Objective 2 and Table 3.11-1 for the following reasons:
- (a) The short-term targets, including the move to 20% of the improvement required in the decision, to achieve Objective 1, do not adequately consider the effects of 'lag' periods for some of the four contaminants;

- (b) It is unclear, and unlikely, the policy mix in the decisions on PC1 will achieve the targets set in Objective 2 and Table 3.11-1 within the proposed timeframe;
- (c) The impact of the requirement to achieve the 20% improvement in water quality in the first ten years is uncertain and potentially significant because an assessment of its effects on the community and well-being has not been carried out; and
- (d) It is more appropriate and achievable to seek to ensure that all actions are implemented and in place to achieve the targets of Objective 2.

Objective 3

- 9. The Appeal against Objective 3 seeks amendments to clarify that the social, economic, spiritual and cultural wellbeing of individuals and communities will be provided for along the journey to achieving the Vision & Strategy and that the focus is on all sources of nitrogen, phosphorous, sediment and microbial pathogens, not just farming.
- 10. SWDC supports in part the relief sought by the Appellant for Objective 3 for the following reasons:
 - (a) Objective 3 does not provide sufficient methods to ensure that community social and economic well-being is met, while achieving the short-term and long-term goals of Objective 1 and 2; and
 - (b) Certainty is required regarding the practicality, feasibility, and ability to achieve the target, along with an analysis of the costs and benefits of achieving the 20% target within the proposed policy mix.

Policy 2

11. The Appeal against Policy 2 seeks various amendments and improvements to the Policy. This notice is confined to the following parts of the Appeal relating to Policy 2:
 - (a) The deletion and replacement of paragraphs (a) and (b) that:
 - (i) considers all contaminants and all activities; and
 - (ii) provides for FEPs that recognise and provide for the characteristics of the relevant sub-catchment, and correspond to the scale and significance of risk;
 - (b) Amend paragraph (c) to:
 - (i) clarify land uses are not grandparented;
 - (ii) provide a 'reasonable definition' of what "material" means in terms of increases; and
 - (iii) provide for flexibility in intensification.

12. SWDC supports in part the relief sought by the Appellant for the following reasons:
 - (a) Nitrogen is only one of the four contaminants that is required to be addressed to meet the outcomes sought by Objectives 1 and 2;
 - (b) Better linkages between the policies and objectives are necessary to support the key contaminants of concern in each sub-catchment;
 - (c) "Grandparenting" would result in inequitable outcomes for stakeholders and will incur additional costs;

- (d) Certainty is necessary regarding the meaning and effect of the term 'material increase' as referred to in Policy 2; and
- (e) Flexibility for land use change is appropriate.

Policy 5

- 13. The Appeal against Policy 5 seeks the deletion and replacement of paragraphs a and b to provide more focus on the contaminants of concern in the relevant sub catchments and to not require reductions of all of the four contaminants in all places.
- 14. SWDC supports in part the relief sought by the Appellant for the following reasons:
 - (a) Clarification and specificity regarding the relevant contaminants of concern is necessary; and
 - (b) Improved proportionality of effort in achieving reductions of all four contaminants is appropriate.

Policy 7

- 15. The Appeal against Policy 7 seeks to extend the duration of consent available to farming and Commercial Vegetable Production activities and remove the reference to future plan change content.
- 16. SWDC supports the relief sought by the Appellant for the following reasons:
 - (a) There are existing mechanisms in the Act that provide for the review of the appropriateness of existing conditions of consents which can be relied on in the context of fresh water management (section 128);
 - (b) Promoting a single date of duration could have unintended consequences, particularly in regard to the Regional Council's

ability to adequately consider and process a “single” mass of resource consent applications; and

- (c) It is appropriate to consider the proportion of improvement achieved (to give effect to Objective 1 and Objective 2) as part of a consent, on a case by case basis, when setting duration.

Policy 8

17. The Appeal against Policy 8 seeks its amendment to include a new sub-clause that recognises that the achievement of Objective 1 is a long term prospect beyond PC1 that requires contributions from all sectors of the community, and that the various ‘well-beings’ are provided for at all times along that journey.
18. SWDC supports in part the relief sought by the Appellant as it gives effect to Objective 3.

Policy 17

19. The Appeal on Policy 17 seeks its deletion.
20. SWDC supports in part the relief sought by the Appellant insofar as wetlands built for the purpose of providing treatment and mitigation for infrastructure (infrastructure wetlands) should be excluded from Policy 17.

New Method 3.11.3.2A – Catchment Profiles

21. The Appeal seeks to introduce a new method which requires Waikato Regional Council to develop ‘catchment profiles’ to assist the implementation of Table 3.11-1.
22. SWDC supports in part the relief sought by the Appellant for the following reasons:

- (a) The proposed method may improve the effectiveness and efficiency of the current policy mix of PC1.
- (b) The development of 'catchment profiles' should not delay the implementation of the provisions of PC1.

Method 3.11.3.3

- 23. The Appeal seeks to amend Method 3.11.3.3 to have a greater focus on the public availability of sub-catchment scale information/accounting systems.
- 24. SWDC supports the relief sought by the Appellant for the following reasons:
 - (a) The proposed amendments provide for improved levels of information provisions and transparency; and
 - (b) The proposed amendments could improve the effectiveness and efficiency of the current policy mix of PC1.

Rule 3.11.4.9

- 25. The Appeal against Rule 3.11.4.9 seeks its amendment to provide for land use change as a discretionary activity.
- 26. SWDC supports in part the relief sought by the Appellant for the following reasons:
 - (a) The overall effectiveness and efficiency of PC1 would be improved by providing for appropriate land use change.
 - (b) Land use change would more likely give effect to Objectives 1, 2 and 3.

Table 3.11-1

27. The Appeal to Table 3.11-1 seeks that it is amended to return to 10% of the change required as opposed to 20% required by the decision.
28. SWDC supports in part the relief sought by the Appellant for the following reasons:
 - (a) It is unclear, and unlikely, the policy mix in the decisions on PC1 will achieve the targets set in Objective 2 and Table 3.11-1 within the proposed timeframe; and
 - (b) The impact of the requirement to achieve the 20% improvement in water quality in the first ten years is unclear as no assessment of its effects on the community and well-being has been carried out.

Table 3.11-2

29. The Appeal against Table 3.11-2 seeks that it is amended to ensure that appropriate metrics have been considered, that the 'worst' catchments are prioritised and to outline how the absence of data/anomalous data is to be managed.
30. SWDC supports in part the relief sought by the Appellant where this results in the Objectives and Policies being better met.

Table 3.11-3

31. The Appeal against Table 3.11-3 seeks that it is amended to:
 - (a) Stage its implementation over the entire 10 years;
 - (b) Reconsider sub catchment boundaries; and
 - (c) Re-prioritise sub-catchments;

32. In respect to (b) and (c), SWDC supports in part the relief sought by the Appellant on the basis that this will result in the Objectives and Policies being achieved/given effect to.
33. SWDC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 28th day of September 2020



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In accordance with the Environment Court Decision No. [2020] NZEnvC 063 this notice is lodged with the Environment Court at WRC.PC1appeals@justice.govt.nz and served on:

The Council at: PC1Appeals@waikatoregion.govt.nz

The Appellant at: nedwards@fedfarm.org.nz

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch