

**BEFORE THE ENVIRONMENT COURT      ENV-2020-AKL-000102**

**AT AUCKLAND**

**I MUA I TE KOOTI TAIAO**

**I TAMAKI MAKAUROA ROHE**

**IN THE MATTER**

of an appeal under clause 14  
of Schedule 1 of the Resource  
Management Act 1991

**BETWEEN**

**FEDERATED FARMERS  
OF NEW ZEALAND  
INCORPORATED**  
*Appellant*

**AND**

**WAIKATO REGIONAL  
COUNCIL**  
*Respondent*

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**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS BY THE  
DIRECTOR-GENERAL OF CONSERVATION**

**Dated: 29 September 2020**

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Department of Conservation

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## **Notice of person's wish to be a party to proceedings**

### **Section 274 Resource Management Act 1991**

To: The Registrar  
Environment Court  
AUCKLAND

1. The **Director-General of Conservation** (the **Director-General**) wishes to be a party to the following proceedings:
  - 1.1. Federated Farmers of New Zealand Incorporated v Waikato Regional Council, ENV-2020-AKL- 000102.
2. The Director-General made submissions and appeared at the Council hearing on the Proposed Plan Change 1 to the Waikato Regional Plan (PC1). The Director-General also has an interest in the proceedings that is greater than the interest the general public has, specifically regarding conservation values and the implementation of the New Zealand Coastal Policy Statement (NZCPS).
3. The Director-General is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (RMA).
4. The Director-General is interested in all of the proceedings.
5. The Director-General is particularly interested in the following issues:
  - 5.1. Objective 1
  - 5.2. Objective 2
  - 5.3. Objective 3
  - 5.4. Objective 4
  - 5.5. Objective 5
  - 5.6. Policy 1
  - 5.7. Policy 2
  - 5.8. Policy 15
  - 5.9. Policy 16
  - 5.10. Policy 18

- 5.11. Policy 19
- 5.12. New method 3.11.3.2A
- 5.13. New permitted activity rule 3.11.4.3A
- 5.14. Rule 3.11.4.6
- 5.15. Rule 3.11.4.7
- 5.16. Rule 3.11.4.9
- 5.17. Schedule D1

6. The Director-General supports or opposes the relief sought.

***Relief supported***

7. The Director-General supports the relief sought by the appellant in relation to the following appeal points because:

- 7.1. Policy 1 - The Director-General is supportive of the provision of sub-catchment specific information to tailor actions to the needs of the catchment.
- 7.2. New Method 3.11.3.2A - The Director-General is supportive of a method encouraging Council to provide catchment specific information for use by plan users and decision makers to tailor appropriate mitigation measures.

***Relief opposed***

8. The Director-General opposes the relief sought by the appellant in the following appeal points because:

- 8.1. Objective 1 - The relief sought does not give effect to Te Ture Whaimana, and Te Mana o te Wai. The health and wellbeing of the catchments include ecosystem health and should not be limited to areas with fishing and swimming values only.
- 8.2. Objective 2 - The relief sought by the applicant to reduce the required improvements in water quality from 20% to 10% only serves to prolong the time required to realise improvements in water quality. This essentially kicks the can down the line which is not appropriate given the state of declining freshwater biodiversity, wetlands, and the

lakes of the region, which require urgent and significant improvements in freshwater quality.

- 8.3. Objective 3 - The Director-General supports the reduction of contaminants and the need for these reductions to be borne across all sources of contaminants rather than just farming. While supportive of the need to provide for economic, social, and cultural needs of communities, the Director-General opposes this appeal point due to the uncertainty around how the appellant intends for this to be expressed and whether it gives effect to the higher order documents.
- 8.4. Objective 4 - The relief sought by the appellant is inconsistent with Te Ture Whaimana and Part 2 of the RMA. Deletion of this objective is inconsistent with Te Tiriti O Waitangi principle of active protection.
- 8.5. Objective 5 - The relief proposed by the appellant does not seek to restore or protect the wetland it instead seeks to ensure that individual economic interests are provided for. This objective should not be qualified as such, the ultimate desired outcome is the restoration and protection of the health and wellbeing of the Whangamarino Wetland. Explicit provision of individual economic interests may undermine the ability to achieve that outcome.
- 8.6. Policy 1 - The relief sought by the appellant is inappropriate. Deletion of paragraph (b) is supported as the Director-General does not support the decisions version's use of table 3.11-2. Further clarification on how catchment scale improvements are to be achieved is supported, however the Director-General opposes the intention to remove the direction that individual farming improvements are also required as this is ultimately what is required to achieve the objectives. The Director-General opposes the deletion of paragraph d) on the basis that all lakes of the regions should be captured by this policy as many of them are in need of significant improvements. Managing the input of nutrients through regulation and consenting is an important method of contributing to these improvements.
- 8.7. Policy 2 - The Director-General considers that stock exclusion and

riparian buffers are important and effective measures which can achieve significant reductions in contaminants across the region and is opposed to these only applying to permanent water bodies. Intermittent and ephemeral streams and smaller drains are critical sources of contaminants.

- 8.8. Policy 15 - The relief sought by the appellant potentially undermines any individual farm scale mitigations and the ability to meet freshwater outcomes by suggesting that only catchment level actions are required or necessary, and only in select circumstances.
- 8.9. Policy 16 - The relief sought by the appellant potentially undermines any individual farm scale mitigations by suggesting that only catchment level actions are required or necessary, and only in select circumstances. The Director-General considers it inappropriate to use this policy to provide for social and economic wellbeing of activities when the objective this policy is seeking to implement is objective 5; the restoration and protection of the health and wellbeing of the Whangamarino Wetland.
- 8.10. Policy 18 - The relief sought by the appellant is inconsistent with Te Ture Whaimana and Part 2 of the RMA. Deletion of this policy is inconsistent with Te Tiriti O Waitangi principle of active protection.
- 8.11. Policy 19 - The relief proposed by the appellant is inconsistent with Te Ture Whaimana and the NPS-FM. The Director-General considers that biodiversity, ecosystem health, flora and fauna are valid considerations because they are part of the health and wellbeing of the awa.
- 8.12. New permitted activity Rule 3.11.4.3A - The appellant's relief is uncertain and potentially inappropriate. Rule 3.11.4.3 already provides a permitted activity for low intensity farming activities that require an FEP which can be prepared by sector schemes. The new rule will duplicate this. It is uncertain whether the appellant is seeking that higher intensity activities will also be a permitted activity, which the Director-General does not consider is appropriate.
- 8.13. Rule 3.11.4.6 - The Director-General considers that a restricted discretionary activity pathway is necessary and appropriately recognises and provides for the significant values of the

Whangamarino Wetland, as well as giving effect to objectives and policies of PC1. The deletion of this rule is opposed.

8.14. Rule 3.11.4.7 - The Director-General considers that a restricted discretionary activity rule as sought by the appellant is not appropriate. The proposed matters of discretion are inadequate and activities with high nitrogen leaching loss rates should be managed by at least a discretionary activity rule.

8.15. Rule 3.11.4.9 - The Director-General supports the non-complying activity status as an appropriately high threshold for the increase in scale of activities which are likely to contribute further contaminants to already degraded water bodies and considers the change in status inappropriate.

8.16. Schedule D1 - The Director-General is opposed to the relief sought by the appellant in relation to Part C.3.b.e where it is intended that intermittently flowing waterbodies need only be identified “where relevant”. Intermittent water bodies are significant contributors of contaminants to the catchment systems and understanding their location is necessary to comply with Schedule C. The Director-General is also opposed to the other amendments proposed by the appellant to schedule D1 and wishes to ensure that any changes to wording do not undermine the ability of PC1 to give effect to the higher order documents.

9. The Director-General agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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Dean van Mierlo  
Counsel for the Director-General

29 September 2020

Address for service of person wishing to be a party:

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**Advice**

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