BEFORE THE ENVIRONMENT COURT

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of an appeal pursuant to clause 14(1) of the First Schedule of the Act
BETWEEN	**FEDERATED FARMERS OF NEW ZEALAND**
	Appellant
AND	**KAPITI COAST DISTRICT COUNCIL**
	Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT
AGAINST DECISION ON A PROPOSED CHANGE TO A DISTRICT PLAN
Clause 14(1) of First Schedule, Resource Management Act 1991

Federated Farmers of New Zealand

To: The Registrar
Environment Court

Federated Farmers of New Zealand appeal against a decision of the Kapiti Coast District Council:

Kapiti Coast District Plan

Federated Farmers of New Zealand made a submission and a further submission and presented evidence before the Hearings Committee in respect of the Kapiti Coast District Plan.

Federated Farmers of New Zealand is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.

Federated Farmers of New Zealand received notice of the decision referred to in this appeal on Friday 24 November 2017.

The decision to reject or accept only in part Federated Farmers submissions and further submissions in respect of the Kapiti Coast District Plan was made by Kapiti Coast District Council.

Federated Farmers is willing to undertake mediation.

The decisions (or parts of the decision) that Federated Farmers of New Zealand is appealing are:

1. Specific provision or matter:

Definition of Earthworks

> ***Earthworks*** *means any alteration to the land contour or disturbance of land including the deposition of cleanfill and the excavation and backfilling or recompaction of existing natural ground.*
>
> *Earthworks does not include any of the following:*
>
> 1. *cultivation of soil for the establishment of crops and pasture;*
> 2. *the harvesting of crops;*
> 3. *domestic gardening;*
> 4. *extractive industries; and*
> 5. *the removal or replacement of underground fuel storage tanks.*

Summary of reasons for the appeal

Federated Farmers seeks that earthworks that are ancillary to farming activities be included amongst the exemptions listed in the definition. Federated Farmers are concerned that earthworks which are normally associated with farming, such as farm tracks are (permitted by Rule 7A.1.5) or farm quarries, will be subject to the $100m^3$ limit for permitted earthworks in Rule 3A.1.6.2 b), which is much too restrictive for most farming earthworks. This would not allow for any further earthworks on the property to maintain troughs and gateways, dig silage pits or effluent ponds. Nor would it enable reasonable operation of farm quarries.

The relief sought in exempting earthworks that are ancillary to farming from the definition for *Earthworks*, would be consistent with the relief sought by the appellant in relation to exempting *Farm Quarries* from the definition of *extractive industry(ies)* (see below), and provide further reinforcement for enabling primary production activity in a manner consistent with the rest of the Plan.

As it stands, the *Earthworks* definition is incongruous with relevant Policies 7.1 and 7.2, which seek to enable primary production and farming activity in the rural environment.

Relief Sought

a) That the definition of *Earthworks* be amended as follows:

Earthworks *means any alteration to the land contour or disturbance of land including the deposition of cleanfill and the excavation and backfilling or recompaction of existing natural ground.*

Earthworks does not include any of the following:

1. *cultivation of soil for the establishment of crops and pasture;*
2. *the harvesting of crops;*
3. *domestic gardening;*
4. *extractive industries;*
5. *the removal or replacement of underground fuel storage tanks; and*
6. *earthworks ancillary to farming activities, including farm tracks and farm quarries.*

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

2. Specific provision or matter:

Definition of Extractive Industries

Extractive Industry(ies) *means any activity where open or surface excavation of rock or other material deposits including gravel, rock, soil, clay, sand or peat is undertaken and removed from the site, and may include:*

- *blasting;*
- *processing minerals by crushing, screening, washing, or blending;*
- *storing and distributing mineral products;*
- *removing and depositing overburden;*
- *recycling or reusing aggregation from demolition waste such as concrete, masonry, or asphalt;*

The removal of soil (including topsoil, sand and peat) from the site which is less than 100m³ in volume within any 10-year period is not included within the definition of extractive industries. Refer to the definition of earthworks and permitted activity standards for earthworks within Chapter 3 Natural Environment for more detail.

Summary of reasons for the appeal

Federated Farmers seeks specific recognition that farm quarries be exempt from the definition of *Extractive Industries* and therefore exempt from the suite of rules applying to extractive industries.

Not having specific exclusion for farm quarries in the definition of extractive industry(ies) leaves room for ambiguity vis-à-vis interpretation of the definition of extractive industries. A number of rules in the district plan are specifically intended for extractive industries.

Federated Farmers is concerned that these rules would be mistakenly applied to farm quarries as a result of ambiguity in interpreting the definition. If they are indistinct from commercial extractive industries, then farm quarries will be inappropriately subject to Policy 7.4 and Restricted Discretionary Rule 7A.3.4, necessitating resource consent, which will be unnecessarily burdensome for farmers. The appellant submits that farm quarries are small scale, used intermittently, ancillary

to the main activity of farming, typically buffered from neighbours by large farm property, with winnings used on site and not transported on public roads. Farm quarries can come under the definition of Earthworks and be subject to rural zone earthworks limits. A second issue is that earthworks limit of 100m^3 currently much too small for common farm earthworks to be permitted. The Hearing Panel, in Report 8 pages 40-41, intended that farm quarries that do not remove soil from the site would not be captured in the definition of extractive industries (and therefore would not be not subject to rules for extractive industries.) This intention does not appear to have been carried through into the above definition.

Relief Sought

a) That Farm quarries be specifically exempt from definition of *Extractive Industry(ies)*; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

3. Specific provision or matter:

Definition of Farming

> ***Farming*** *means land based activity, having as its primary purpose the production of livestock or vegetative matter, including agriculture, horticulture, plantation forestry and viticulture. For the purposes of this Plan, farming does not include the processing of farm produce beyond cutting, cleaning, grading, chilling, freezing, packaging and storage of produce grown on the land.*

Summary of reasons for the appeal

Federated Farmers seeks earthworks ancillary to farming are included in the definition of *Farming.*

There are a lot of ubiquitous small-scale earthmoving activities that are part and parcel of farming. These include: cultivation and harvesting of crops, planting trees, removal of trees, root cropping, post hole digging, drilling bores, digging offal pits, burial of dead stock and plant waste, services installation for piping and cabling. Ensuring that such ancillary earthwork activities are intended to be interpreted as part of normal farming activity, will provide certainty that such earthworks can reasonably be undertaken without the need for resource consent. Whereas if such ancillary earthworks were not clearly contemplated as part and parcel of the definition of Farming, then such earthworks would be inappropriately subject to policies and rules in other chapters of the PDP, and would have to comply with rules in other chapters of the PDP, including Chapter 3 (Natural Environment), Chapter 9 (Hazards), Chapter 10 (Historic Heritage), which would create an unnecessary burden for many farmers.

The Environment Court has previously upheld an appeal by Federated Farmers to the Horowhenua District Plan, which sought similar acknowledgement for such ancillary earthworks (ENV-2013-WLG-000089). The Hearing Panel for the proposed plan clearly agreed to accept Federated Farmers request for this inclusion in the definition, (See Para 18.14 on P.107 of HP Report 8), but this has not been carried through into the definition in the decisions version of the proposed plan. The oversight in omitting other earthworks ancillary to farming' in the definition of Farming needs to be rectified.

Relief Sought

a) That the definition of *Farming* be amended to incorporate ability to include earthworks ancillary to farming; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

4. Specific provision or matter:

Definition of Intensive Farming

Intensive Farming (Activity(ies)) *means the commercial raising and keeping of pigs, poultry, dairy and beef cattle, sheep, ferrets and other animals in yards, pens, feed lots, bars* (sic – barns?) *or similar enclosures or buildings for periods in excess of 48 hours in any week and being sustained on supplementary feed while also confined.*

Summary of reasons for the appeal

Federated Farmers seeks that the definition should not capture ordinary pastoral farming practice, and thus trigger requirement for resource consent.

The incorporation of the term '*commercial*' means that pastoral farming will be inappropriately caught by this definition. More importantly, the 48-hour time limitation in this definition will still catch many instances of ordinary pastoral farming practice in which stock may have to be confined to shelter for periods in excess of 48 hours at a time, especially during winter and wet conditions, or when penning stock for treatment or quarantining for disease isolation, or sheltering freshly shorn sheep during cold conditions, covered feed pads, and confining new-born calves until weaning at 8-12 weeks. Farmers should not have to apply for resource consent if they want to provide sheltered or clean conditions for their stock for more than 48 hours at a time.

Relief Sought

a) That the definition of *Intensive Farming* be amended to exclude pastoral farming where livestock are indoors temporarily; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

5. Specific provision or matter:

3A.1.4 – Permitted Activities – trimming indigenous vegetation
Trimming or modification of indigenous vegetation that is within the Rural Hills, Rural Plains, and Rural Dunes, Open Space (Conservation and Scenic) and River Corridor Zones.
3A.1.4.2 – Exemptions to standards in Rule 3A.1.4.1 for trimming or modification of indigenous vegetation

Summary of reasons for the appeal

Federated Farmers is concerned that provisions for trimming indigenous vegetation in the rural zones are unnecessarily burdensome for farmers for little to no biodiversity gain when applied outside Ecological Sites. Use of the terms *trimming* and *modification* inappropriately include *de minimis* activities that have no effect on biodiversity, regulation should be limited to *clearance* of indigenous vegetation.

Federated Farmers seeks deletion of all references to *Key Indigenous Tree Species* deleted, for the reason that this category is unnecessarily burdensome, will not achieve sustainable management and the concern that these categories are intended to address is already managed by Ecological Sites.

Farmers need to remove indigenous vegetation to form and maintain tracks, fire breaks, stream crossings and bridges, fence lines and buildings. Clearance is also required to form and maintain pasture as some indigenous species are unpalatable to livestock and quickly encroach.

Federated Farmers seeks additions to the exemptions in Standard 2 in Rule 3A.1.4 in order to permit formation and maintenance of tracks, stream crossings and bridges; and formation and maintenance of pasture. Currently, the only indigenous vegetation modification permitted for tracks is when these are used for pest/weed control under Standard 2 a), yet farm tracks will be necessary and used for purposes other than weed control and should be permitted.

Stream crossings and bridges are strongly encouraged and sometimes required by regional council regulations for water quality purposes, the district plan should not inhibit such activities that have an ultimate environmental benefit.

Fire control is an activity that occurs in rural zones other than Rural Hills, so all rural zones should be included in Article b) making them permitted.

A 2m clearance space from a building is insufficient for maintenance in Article e). A more generous setback would be appropriate.

There is no need to restrict clearance for fences to the use of excluding stock from an area in Article g), it is unclear what “an area” is referring to. This rule will apply to indigenous vegetation that is outside Ecological Areas so it is reasonable that farms will have existing fences or will need to erect new fences for the purpose of division of land into paddocks, fencing of permanent crops or trees, up driveways, races and tracks, along boundaries or around buildings and will need to clear indigenous vegetation that is outside an Ecological Area.

Some of these activities, such as boundary fencing, should also be expected and permitted within an Ecological Area. There will be no difference in biodiversity effects between clearing indigenous vegetation for the purpose of fencing a race and clearing of indigenous vegetation for excluding livestock.

Relief Sought

a) That formation and maintenance of pasture, stream crossings and bridges, and farm tracks are provided for as permitted in Standard 2 of Rule 3A.1.4.

b) That all references to *Key Indigenous Tree Species* are deleted; and
c) That all rural zones are able to clear for firebreaks in Article b); and
d) That a more generous clearance distance (than 2 metres) be provided from the wall or roof of a building in Article e);
e) Clearance for formation and maintenance of all fences regardless of the fences' use are permitted in Article g);
f) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

6. Specific provision or matter:

Rule 3A.3.8. Trimming or modification of indigenous vegetation *that is within the Rural Hills, Rural Plains, Rural Dunes, Open Space (Conservation and Scenic) and River Corridor Zones that does not comply with one or more of the permitted activity standards in Rule 3A.1.4.*

Summary of reasons for appeal:

Federated Farmers seeks that normal farming activities within Ecological Sites are permitted, consistent with our appeal regarding Rule 3A.1.4.

Federated Farmers seeks deletion of all references to *Rare and Threatened Vegetation Species*, and *Key Indigenous Tree Species* deleted, for the reason that these categories are unnecessarily burdensome, will not achieve sustainable management, and the concern that these categories are intended to address is already managed by Ecological Sites.

The lists of trunk diameters and heights for 44 different species is unwieldy and complicated for both resource users and the council and means that every tree will need to be checked if it is under or over these limits to work out if permitted or needs resource consent. For farming where large areas of vegetation may need to be cleared this will be extremely onerous for no benefit to biodiversity when outside ecological areas.

Relief Sought:

a) That normal farming activities within Ecological Sites are permitted, consistent with our appeal regarding Rule 3A.1.4; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

7. Specific provision or matter:

Rule 3A.1.6 Permitted Activity Standards for earthworks.

Summary of reasons for the appeal

Federated Farmers seeks exemption for earthworks that are ancillary to farm activities from having to comply with limitations on permitted earthwork activities.

Whilst the Council's decision on submissions on the proposed plan has clarified that many types of earthworks normally associated with primary production are exempt from these standards, farm quarries have been overlooked. Farm quarries in particular are an essential integral activity for primary production farming, and it is vitally important that these be provided for in the list of exemptions from permitted activity earthworks elsewhere in Rule 3A.1.6. As it stands, farm quarries will be subject to the 100m^3 limit for permitted earthwork in Rule 3A.1.6.2 b), which is much too restrictive, and will cause farm quarries to inappropriately trigger a requirement to obtain resource consent, which would be unnecessarily burdensome for farmers. Farm quarries are routinely used for obtaining metal for a number of farming operations, including: forming farm tracks, water reservoirs, hardstand areas for stock (which is important for maintaining the hoof health of stock), hardstand areas for storage of equipment and supplies and fodder (including fertiliser pens, silage pits), farm buildings, vehicle manoeuvring areas and farm airstrips. Farm tracks and stock marshalling yards especially need regular maintenance, which is a permitted activity under Rule 7A.1.5. Enabling farm quarries is vitally important for ensuring farmers can provide for their economic wellbeing and the efficient management of farms.

In this instance, exempting earthworks that are associated with activities which are ancillary to farming, from permitted activity standards for *Earthworks*, would be consistent with the relief sought by the appellant in relation to exempting *Farm Quarries* from the definition of *Extractive Industries* (see above), and provide further reinforcement for enabling primary production activity in a manner consistent with the rest of the Plan.

Relief Sought

a) That Rule 3A.1.6.4 be amended by adding the following item to the list of exclusions from permitted activity standards in Rules 3A.1.6.1 and 3A.1.6.2:

    - 'Farm Quarries' where excavated material is not being removed from the farm site.

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

8. Specific provision or matter:

Classification of *Special Amenity Landscapes* throughout the proposed plan, including:

- **Objective 2.9 Landscapes, Features and Landforms (in so far as it includes reference to "special amenity landscapes").**
- **Policy 3.13 – Special Amenity Landscapes (and the accompanying Note).**
- **Schedule 3.5 Special Amenity Landscapes.**
- **Reference and identification of "Special Amenity Landscapes" on the Planning Maps.**

Summary of reasons for the appeal

Federated Farmers seeks deletion of Special Amenity Landscapes, for the reason they add an unnecessary added layer of complication over and above normal zoning provisions that anticipate maintenance and enhancement of amenity values, especially where rural farmland is concerned. The amenity associated with rural farmland is predominantly that of a working rural landscape, and farmers and primary producers shape the rural landscape in the course of their normal activities. The Hearings Panel for the Council recommended removing many of the provisions relating to Special Amenity Landscapes that had originally been notified. The appellant submits that there is no need to differentiate such features nor make any distinction for these.

Relief Sought

a) That all reference to Special Amenity Landscape in Objective 2.9 along with Policy 3.13, and Schedule 3.5 relating to Special Amenity Landscapes, and all such references on the Planning Maps, be deleted from the proposed plan.

b) Make any consequential amendments as to detail or substance throughout the Plan to give effect to these appeal points.

9. Specific provision or matter:

Rule 3A.1.7 Buildings in Outstanding Natural Landscapes (Permitted Activity)

Buildings in outstanding natural features and landscapes, except buildings ancillary to Network Utilities.

Permitted Activity Standards for Rule 3A.1.7

1. *Buildings shall have a gross floor area no greater than 60m^2.*
2. *Buildings shall not have a height no greater than 6 metres.*
3. *Building colours and materials (excluding glazing) shall be non-reflective and recessive.*

Summary of reasons for the appeal

Federated Farmers seeks that farming buildings and structures are exempt from the permitted activity standards in Rule 3A.1.7 and instead are subject to their underlying zoning standards.

Federated Farmers has long maintained that farmland should not be classified under the ONFL banner, because farmland is a modified working rural landscape. Notwithstanding this, Federated Farmers concern is that any ONFL classification of farmland shouldn't restrict normal farming use. Where ONFL areas are identified over farmland, Federated Farmers seeks recognition that existing production uses are a positive and acceptable attribute and production activities can continue.

Federated Farmers seeks recognition that any ONFL classification of farmland should reflect values held by farmers who are landowners and primary producers on such land. Farm activity and ancillary buildings form part of the working landscape character of rural areas and they are part and parcel of

infrastructure essential to farmers. Farm development should be enabled in order to provide certainty in considering investment to support farm operations. Farming practices change over time and the form of activity and development on farms needs to meet demands of modern farming. Inappropriate restriction undermines farmers' ability to manage farmland efficiently, which could have the unintended consequence of detracting from the very rural character that such ONFL classification is seeking to 'protect'.

At the very least, the appellant seeks more generous provision for farm buildings than what is set out in the permitted activity standards in Rule 3A.1.7, which are insufficient to enable farming. While 60m^2 and 6 metre maximum height may be suitable as urban scale limitations, adopting such limits for permitted buildings in rural areas is inappropriate and impractical for many rural buildings. Farm buildings that typically exceed 60m^2 GFA and 6 metres in height include: hay-barns, vehicle and implement storage sheds, stock shelters, shearing sheds and milking sheds. Some rural properties are substantially affected by ONFL overlays and there is little choice for locating suitable rural buildings except within ONFL areas. The 60m^2 GFA limit and the 6 metre height limit will trigger an unnecessarily burdensome requirement for resource consent for such rural farm buildings.

Relief Sought

c) That policies be included in the proposed plan, which:

   i) Recognise primary production and farming activity as integral to landscape values within Outstanding Natural Feature and Landscape areas that have been identified on primary production farmland that is in private ownership,

   ii) Recognise that it is appropriate to provide for primary production farming and ancillary activities (such as; farm buildings and ancillary structures, earthworks associated with primary production farming, and farm access tracks), as permitted activities on primary production farmland that is in private ownership.

d) That farming buildings and structures are exempt from the permitted activity standards in Rule 3A.1.7 and instead are subject to their underlying zoning standards; and

e) Make any consequential amendments as to detail or substance throughout the Plan to give effect to these appeal points.

10. Specific provision or matter:

Restricted Discretionary Activity Rule 3A.3.5 - Earthworks in Outstanding Natural Features and Landscapes
Earthworks for the purposes of establishing or upgrading any farm and forestry tracks for permitted farming activities on land within outstanding natural features and landscapes.

Summary of reasons for the appeal

Federated Farmers seek that Restricted Discretionary status for farm tracks in ONFLs should only be triggered where the Permitted Activity Standard for farm and forestry tracks in Rule 7A.1.5 cannot be complied with.

Farm tracks are an essential integral activity for primary production, and it is vitally important that such be provided for as permitted activities on land used for primary production to ensure safe and efficient stock and vehicle movement and access on land where primary production activities are permitted. Failure to do so would cause farm tracks to inappropriately trigger a requirement to obtain resource consent, which would be unnecessarily burdensome for landowners and farm operators. Where ONFLs are identified over primary production land, it is essential that farmers can provide for their wellbeing and safety by permitting farm tracks so existing farming activities can continue.

Moreover, farm tracks are part and parcel of the landscape character of farmed (and for that matter, forested) land.

Introducing unnecessary consent processes merely serves to discourage formation of farm tracks where they otherwise may be needed, thus contributing to potentially unsafe and inefficient farm access, and adversely impacting on the economic viability of productive land. This cannot be the intent of classifying ONFLs over farmland or forestland. Some ONFL area classifications are so extensive as to leave landowners with few other options in contemplating access.

Restricted Discretionary Activity status for farm tracks in ONFLs should only be triggered where the Permitted Activity Standard for farm and forestry tracks in Rule 7A.1.5 cannot be complied with. An appropriate restricted discretionary activity standard in cases where Rule 7A.1.5 cannot be complied with, would be that earthworks for such tracks must not result in a vertical change (cut or fill) height that exceeds 1 metre. This would ensure an appropriate extra layer of consideration for farm tracks in ONFLs.
Forestry provisions are already managed by the National Environmental Standards for Plantation Forestry, there is no need to duplicate this function in the District Plan.

Relief Sought

a) That earthworks for farm tracks in ONFLs are permitted under Rule 7A.1.5 and that Rule 3A.3.5 only apply when Permitted Activity Standard in Rule 7A.1.5 cannot be complied with; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

11. Specific provision or matter:

Schedule 3.2 and Rules pertaining to Key Indigenous Tree Species

Summary of reasons for the appeal

Federated Farmers seek deletion of Schedule 3.2 and all references to Key Indigenous Tree Species in the Plan.

There is no need for a category for key indigenous tree species as Areas of these tree species should be assessed and if they have RMA Section 6(c) status as significant indigenous vegetation then they should be classified as an Ecological Site using criteria in Policy 22 of the RPS and receive protection under that suite of provisions. If they are not within an Ecological Site, then there is no need for further regulation.

The lists of trunk diameters and heights for 44 different species is unwieldy and complicated for both resource users and the council and means that every tree will need to be checked if it is under or over these limits to work out if permitted or needs resource consent. For farming where large areas of vegetation may need to be cleared this will be extremely onerous for no benefit to biodiversity when outside ecological areas.

Relief sought:

a) That Schedule 3.2 and all references to Key Indigenous Tree Species are deleted.

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

12. Specific provision or matter:

Forestry provisions:

- **Policy 7.3;**
- **Permitted Activity Rule 7A.1.3;**
- **Controlled Activity Rule 7A.2.2;**
- **Discretionary Rule7A.4.1**

Summary of reasons for the appeal

Federated Farmers seek that forestry provisions be struck out in anticipation that the *Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017* ('NESPF') will come into effect on 1 May 2018 and district plans will have to re-align with this.

Relief Sought

a) That the forestry provisions Policy 7.3; Rules 7A.1.3; 7A.2.2; and 7A.4.1 be deleted.

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

13. Specific provision or matter:

Rule 7A.1.2 Pastoral and arable farming, planting and maintenance of plantation forestry, shelterbelts, outdoor (extensive) pig farming, horticulture, viticulture and orchards in all Rural Zones

Summary of reasons for the appeal

Federated Farmers seek that Standards 1 and 2 pertaining to Rule 7A.1.2 be deleted.

Forestry provisions will become obsolete in May 2018 when the National Environmental Standard for Plantation Forestry comes into effect.

The inclusion of a setback on shelterbelt planting is inappropriate and inhibits the ability of farmers to carry out riparian planting, biodiversity management, soil conservation and stock exclusion. Furthermore, the limitations on height and proximity of shelterbelts to waterways is too impractical to monitor and efficiently manage. A 6-metre high shelterbelt arguably has the same effect in proximity to waterways as a 10-metre high shelterbelt or a 16-metre high shelterbelt. The standard is arbitrary and will create an unnecessary addition to the existing shelterbelt maintenance burden for farmers.

Relief Sought

a) That Standards 1 and 2 of Rule 7A.1.2 are deleted; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

14. Specific provision or matter:

Definition: National Grid Corridor

Summary of reasons for the appeal

Federated Farmers appeals that the name of the National Grid Corridor is amended to National Grid Subdivision Corridor, since its purpose is to manage subdivision. Federated Farmers also seeks deletion of references to the 100kV lines seeing as the only 100kV line in the district was removed in 2016.

Relief Sought

a) That the definition is retitled to National Grid Subdivision Corridor; and

b) Reference to the decommissioned 100kv line is removed; and

c) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

15. Specific provision or matter:

Definition: National Grid Yard

Summary of reasons for the appeal

Federated Farmers appeals the definition of National Grid Yard for the reason that it inappropriately includes a line that has been removed and no longer exists.

The 110kv MHO-PKK Mangahao – Paekakariki A and B Lines, single circuits predominantly on poles, were removed in 2016 therefore there is no need for them to be identified as a National Grid Yard in the planning maps. This was the only National Grid line on poles, the others are on towers.

Relief Sought

d) That references to the decommissioned 100kv line is removed from the definition of National Grid Yard; and

e) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

16. Summary of the decision specific provision or matter

Policy 11.2 Reverse Sensitivity.

Summary of reasons for the appeal

Federated Farmers appeals Policy 11.2 for the reasons that it is inconsistent with the National Policy Statement for Electricity Transmission (NPS-ET), inappropriately includes gas transmission pipelines and will negatively impact on existing farming activities.

Federated Farmers appeals that Clause (a) of Policy 11.2 be amended, for the reason that it inappropriately seeks to identify corridors for future infrastructure, which will have the deleterious effect on existing activities for the purpose of protecting infrastructure that does not yet exist. This unwarranted protection of future infrastructure also undermines the designations process and the Public Works Act. Identification of corridors should be limited to only the National Grid as directed by the NPS-ET Policy 11, and not to other forms of infrastructure.

Federated Farmers appeals that Clause (c) of Policy 11.2 be amended, for the reason that it inappropriately seeks to avoid all activities within the National Grid Yard, however this is inconsistent with NZECP34 which allows for activities and buildings that meet safety distances, and with the rules in the District Plan itself which also allow for some activities and buildings. There

needs to be a clear distinction between sensitive activities (being dwellings, schools and hospitals) to be avoided within the Yard, and non-sensitive activities to be managed to the extent reasonably possible within the Yard, in accordance with Policies 10 and 11 of NPS-ET.

Federated Farmers appeals that Clause (d) of Policy 11.2 be deleted, as it is unnecessary duplication. A number of regulatory documents already manage safety around gas transmission: The Ministry of Business, Innovation & Employment Guide for Safety with Underground Services; the Gas Act 1992; Health and Safety at Work Act 2015; and Health and Safety in Employment (Pipeline) Regulations 1999, and the Gas Act 1992. Any company that has gas transmission assets located on private land would likely have an existing relationship and easement agreements with the landowners.

Federated Farmers appeals that Clause (e) of Policy 11.2 be deleted, for the reason that it is unnecessary duplication of Electricity (Hazards from Trees) Regulations, and does not relate to any rules within the District Plan. Clause (f) is sufficient to manage planting.

Relief Sought

a) That corridors are only identified for the National Grid, and references to gas pipelines are deleted; and

b) Policy 11.2 does not include corridors for future infrastructure in (a) as this contravenes the designations process and Public Works Act, and will have the effect of unfairly restricting existing activities and landowners' ability to use and enjoy their land for the purpose of protecting a future infrastructure project; and

c) That there is a clear policy distinction between sensitive activities and non-sensitive activities that could compromise the National Grid in Policy 11.2(c), where sensitive activities are avoided in accordance with NPS-ET Policy 11, and non-sensitive activities are managed in accordance with NPS-ET Policy 10; and

d) That clauses (d) and (e) of Policy 11.2 are deleted; and

e) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

17. Specific provision or matter:

Policy 11.22 – National Grid and High Pressure Gas Transmission Lines.

Summary of reasons for the appeal

Federated Farmers appeals Policy 11.22 for the reason it is not consistent with the National Policy Statement for Electricity Transmission.

There needs to be a clear policy distinction between sensitive and non-sensitive activities to be consistent with Policies 10 and 11 of NPS-ET. Farming subdivision, earthworks, buildings and structures are not sensitive and should not be inappropriately captured by provisions intended for sensitive activities.

Gas pipelines should not be included in a policy intended to implement the NPS-ET, as they are not subject to the NPS-ET.

The policy imposes unfair regulatory burden on landowners when it seeks to restrict activities for the purpose of protecting future upgrades. This undermines the Electricity Act and injurious affection, while restricting the landowners' current use and enjoyment of their own property.

Health and safety is not an RMA matter nor an NPS-ET matter, this topic is already well managed by other legislation and regulations so not necessary in a district plan, therefore Article (c) of Policy 11.22 should be deleted.

The references to access in Policy 11.22 are inappropriate. Access over private property and the route work crews travel to reach network utility structures, is a matter between the landowner and the network utility operator. Transpower negotiates with the landowner under its statutory right of access existing works under s.23 of the Electricity Act 1992. NZECP34 distances are also for the purpose of allowing access to existing assets and preventing structures being "built-out" under clause 2.1.1 It is unreasonable to expect a clear run for a vehicle to travel down the length of the network utility on private land without encountering landowner activities.

Relief Sought

a) That references to gas pipelines are deleted from Policy 11.22; and

b) That the policy provides a clear distinction between sensitive and non-sensitive activities to be consistent with Policies 10 and 11 of NPS-ET.

c) That references to access are deleted from Policy 11.22; and

d) That Article (c) of Policy 11.22 is deleted; and

e) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

18. Specific provision or matter:

Permitted Activity Rule 11C.1.1 - *Activities, buildings and structures located within the National Grid Yard, identified as a permitted activity under the rules in Table 11C.1.*

Summary of reasons for the appeal

Federated Farmers appeals Rule 11C.1.1 for the reason that it is contrary to NZECP34:2001 *Code of Practice for Electrical Safe Distances*. NZECP34:2001 only requires written permission from Transpower if minimum safe distances are *not* complied with. The requirement for written permission from a third party in order to have permitted status is onerous to resource users.

Relief Sought

a) That Rule 11C.1.1 is deleted; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point

19. Specific provision or matter:

Permitted Activity Rule 11C.1.4 - *Within the National Grid Yard … within 12 metres of a National Grid support structure foundation or stay wire.*

Summary of reasons for the appeal

Federated Farmers appeals Rule 11C.1.4 for the reason that it is inconsistent with NZECP34:2001 *Code of Practice for Electrical Safe Distances* and will have unreasonable restriction on farm fences, structures and buildings. NZECP34:2001 only requires written permission from Transpower if minimum safe distances are *not* complied with. The requirement for written permission from a third party in order to have permitted status is onerous to resource users.

Relief Sought

a) That Standard 4 of Rule 11C.1.4 is deleted; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point

20. Specific provision or matter:

Restricted Discretionary Activity Rule 11C.3.1 - *Subdivision of land in any zone within 10 metres either side of the centre-line of high pressure gas pipeline designed to operate at or over 2000kPa.*

Summary of reasons for the appeal

Federated Farmers appeals that Rule 11C.3.1 be deleted, for the reason that activities near gas pipelines are already managed by other regulations and easement agreements and district plan regulation is unnecessary and potentially conflicting duplication.

Gas transmission is already managed by the Ministry of Business, Innovation & Employment *Guide for Safety with Underground Services*; the Gas Act 1992; Health and Safety at Work Act 2015; and Health and Safety in Employment (Pipeline) Regulations 1999. Any company that has gas transmission assets located on private land would likely have an existing relationship with the landowners, as they would need access for maintenance and operation activities. Gas lines would also likely be on Certificates of Title and landowners are probably well aware of their presence on their property. Section 23 Protection of Existing Fittings and Section 24 Rights of Entry in Respect to Existing Fittings of the Gas Act leads me to deduce that any gas lines installed across private land post 1 January 1993 would be subject to easements similar to telco and electricity utilities.

Relief Sought

a) That Rule 11C.3.1 is deleted; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point

21. Specific provision or matter:

Rule 12D.1.2 Permitted Activity Standards for Noise from Activities with the Rural Zones, River Corridor Zone, all Open Space Zones, and the Private Recreation and Leisure Zone.

Summary of reasons for the appeal

Federated Farmers submitted on the noise provisions that were included in the proposed plan, concerned that noise from all farming activities should be anticipated in all rural zones, and that such noise should be unrestrained by secondary activities such as rural residential or rural lifestyle activity and development within rural zones. Placing or inferring noise limits on permitted rural activities is in conflict with Policies 7.1, 7.2, 7.6, 7.7, 7.8, 7.10 which seek to enable primary production, and Policies 7.12, 7.13 and 7.14, relating to specific rural zones, and Policy 12.11 relating to noise-sensitive activities.

Federated Farmers seek that all noise resulting from permitted primary production activities should be included in the exemptions listed in Rule 12D.1.2.4.

Relief Sought

a) That Rule 12D.1.2.4 e) be amended so all noise associated with primary production activities (including permitted activities ancillary to primary production) shall be exempt from the noise limits in the standard (12D.1.2.1) above; and

b) Make any consequential amendment as to detail or substance throughout the Plan to give effect to this appeal point.

I attach the following documents to this notice:

(a) a copy of Federated Farmers submissions:
(b) a copy of the relevant decision (*or* part of the decision):
(c) any other documents necessary for an adequate understanding of the appeal:
(d) a list of names and addresses of persons to be served with a copy of this notice.

_____

Rhea Dasent
for Federated Farmers of New Zealand

25 January 2018

Address for service of appellant:

Ms Rhea Dasent
Regional Policy Advisor
Federated Farmers of New Zealand
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WELLINGTON 6140

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

The copy of this notice served on you does not attach a copy of any other documents necessary for the adequate understanding of the appeal (of which there were none), or a list of names and addresses of persons to be served with a copy of this notice. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.