

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN FEDERATED FARMERS OF NEW
ZEALAND
(ENV-2018-WLG-000012)
AND ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INC
(ENV-2018-WLG-000021)
Appellants
AND KAPITI COAST DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The Kapiti Coast District Council's Proposed District Plan be amended by:
 - (a) The inclusion of Rule 3A.1.X as follows:

**Permitted Activity Rule – Extraction of materials from Farm quarries
in Rural Hills and Rural Plains.**

 1. Extraction of materials from farm quarries shall:
 - (a) not exceed 1,000m³ in any calendar year;
 - (b) not be extracted for sale or trade;



- (c) be used on that *property* or adjacent properties under the same ownership or management for permitted *farming* activities *ancillary* to *farming*;
- (d) not be extracted or stockpiled within an *Outstanding Natural Feature and Landscape, ecological site, historic heritage feature, or flood hazard category*; and
- (e) not be extracted nor stockpiled within the *National Grid Yard*.

2. The farm quarry shall:

- (a) be setback 10m from any *boundary*;
- (b) be setback 20m from *waterbodies* and *wetlands*;
- (c) be setback 10m from an *ecological site*; and
- (d) be setback 30m from coastal marine areas.

3. The farm quarry shall:

- (a) not include the use of mechanical separators or crushers; and
- (b) be limited to a maximum of 1 quarry site per *property*.

- (b) The inclusion of a new note in Rule 11C.1.5 as a consequential amendment resulting from Rule 3A.1.X as follows:

Note 1: Farm quarries are not permitted in the National Grid Yard and will require consent under Rule 11C.3.3 or Rule 11C.5.3.

- (c) The inclusion of Rule 3A.3.X as follows:

Restricted Discretionary activity – Farm quarries that do not meet permitted activity standards

Any activity that is listed as a permitted activity which does not comply with one or more of the associated standards

Matters of discretion are restricted to:

- (a) consideration of the effects of the standard not met;
- (b) measures to avoid, remedy or mitigate adverse effects; and
- (c) cumulative effects.



Note: attention is drawn to the provisions of Chapter 11C, in which additional controls apply to earthworks in the *National Grid Yard*. Farm quarries in the *National Grid Yard* will require consent under Rule 11C.3.3 or Rule 11C.5.3.

- (d) amending the definition of Intensive Farming (Activity(ies)) as follows: **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, barns or similar enclosures or *buildings* for more than 6 months in any calendar year for periods in excess of 48 hours in any week and being sustained on supplementary feed while so confined.
- (e) consequential amendment to Rule 11C.5.1(c) resulting from the amendment to the definition of Intensive Farming (Activity(ies)) as follows: any milking shed (excluding accessory buildings and structures), commercial greenhouse, protective canopies or other *building used for the keeping of animals* for an intensive farming activity;

[B] Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] The Court has read the notices of appeal and the memorandum of the parties dated 4 September 2018.

Other relevant matters

[2] Horticulture New Zealand, Wellington Regional Council, Transpower New Zealand Ltd, Director-General of Conservation, C T Brown, M Niven, Lyndon Enterprises Ltd, Waa Rata Estate, A A Smith, M L Smith, U E Guttke, Spark New Zealand Trading Ltd, Maypole Environmental Ltd and New Zealand Transport Agency gave notice of an intention to become parties under s 274 to the aspects of the appeals resolved by this consent order and have signed the memorandum setting out the relief sought.



Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 11th day of December 2018



B P Dwyer
Environment Judge

