

**BEFORE THE ENVIRONMENT COURT**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of an appeal pursuant to clause 14 of the First Schedule to the Act

**BETWEEN** **ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED**

Appellant

**AND** **KAPITI COAST DISTRICT COUNCIL**

Respondent

**ENV-2018-WLG-021**

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**NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS**

Section 274, Resource Management Act 1991

**Federated Farmers of New Zealand**

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To: The Registrar  
Environment Court  
District Court Building  
Level 5  
49 Ballance Street  
**WELLINGTON 6011**

TAKE NOTICE, that Federated Farmers of New Zealand gives notice pursuant to Section 274 of the Resource Management Act 1991 that it wishes to be a party to the following proceedings:

**Royal Forest and Bird Protection Society of New Zealand Incorporated**

**v**

**Kapiti Coast District Council**

**ENV-2018-WLG-021**

This notice is made upon the following grounds:

- 1 Federated Farmers has an interest in the proceedings that is greater than the interest that the general public has. The grounds for saying that Federated Farmers come within this category are that:
  - The subject matter of the appeal is a matter of interest to farmers who rely on the natural and physical resources of the Kapiti Coast District in making their livelihoods;
  - There is potential for farmers to be disadvantaged by the terms of the appeal;
  - Federated Farmers is a representative body for farmers, so is in an appropriate position to represent the interest of farmers who may be disadvantaged by the terms of the appeal.
  - Federated Farmers submitted on the proposed plan in question and relief sought by the appellant seeks to overturn some of the relief granted in the Council's decision on the proposed plan in response to Federated Farmers submission and further submission.
  - Federated Farmers has appealed some aspects of the Council's decision on the proposed plan (ENV-2018-WLG-012), which are affected by the relief sought by the appellant.
- 2 Federated Farmers is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.
- 3 Federated Farmers opposes the relief sought, and has an interest in all the proceedings for the following reasons:
  - Federated Farmers opposes the relief seeking to amend the definition of *Indigenous Vegetation* to include that planted by humans. Federated Farmers opposes this relief because it will result in regulation inappropriately inhibiting the maintenance of planted vegetation and therefore will act as a disincentive to plant more indigenous vegetation.
  - Federated Farmers agrees with the appellant that *modification and trimming* definitions are unclear, however Federated Farmers seek that the definition be amended to refer only to *clearance* of indigenous vegetation. Many farming activities typically involve trimming of all kinds of vegetation for a variety of purposes (including: maintenance of space around farm buildings, farm access-ways and tracks, stream crossings and bridges, fences, fire breaks, and pasture and cropland formation and maintenance). Not exempting farm activities from onerous resource consent requirements for trimming of indigenous vegetation would incur disproportionately high costs and long delays on the part of landowner/farmers for arguably little environmental benefit. Federated Farmers has appealed Rule 3A.1.4 seeking relief allowing further exemptions for farming and ancillary activities in this regard. For the same reasons, Federated Farmers opposes relief sought to reinstatement of *former proposed* Rule 3A.4.2 – *Modification of indigenous vegetation that does not meet previous rule standards*.

- Federated Farmers opposes the relief seeking to reinstate Policy 3.1– *Ecosystem services*, for the reason that it is an unnecessary policy and the matters it sought to address are addressed in other policies.
- Federated Farmers opposes the relief seeking to reinstate Policy 3.2 - *Identification of sensitive natural features*, for the reason that the category *Sensitive Natural Features* was a confusing umbrella category and only added unnecessary complexity. The appellant’s concern about identification of significant biodiversity is already addressed through the Plan’s identified *Outstanding Natural Features and Landscapes, Ecological Sites*, and areas of *Outstanding Natural Character, High Natural Character, and Coastal Dominance*.
- Federated Farmers opposes the relief seeking to extend the scope of Policy 3.1 – *Protection (former proposed Policy 3.3)* in order to extend protection of indigenous vegetation so that the policy also applies outside scheduled areas, for the reasons that this will:
  - a) increase uncertainty about which indigenous vegetation is subject to this policy, and
  - b) create an unnecessary burden for farmers, who may need to trim or remove individual indigenous vegetation plant specimens which are outside scheduled areas as part of routine farm activities (such as pasture maintenance and maintaining clearance around farm buildings, tracks and access-ways), resulting in an unnecessary need to obtain resource consent for such activities, for arguably little environmental benefit.
- Federated Farmers opposes relief seeking retention of *former proposed Policy 3.7 – Subdivision*, for the reason that sufficient guidance in relation to subdivision is provided in new Policies 3.1 and 3.8, and specific assessment of subdivision and development in relation to the former umbrella category of *sensitive natural features* that former Policy 3.7 specifically targeted, is unnecessary. Federated Farmers submitted on the proposed plan that this umbrella category added unnecessary complexity to the plan and would create an unnecessary extra layer of consideration with which to burden landowners contemplating subdivision, for arguably little environmental benefit.
- Federated Farmers opposes relief seeking retention of *former proposed Policy 3.8 - Cumulative Effects*, for the reason that sufficient guidance on the cumulative effects of subdivision and development is provided in other policies in the Plan, and specific assessment of cumulative effects of subdivision and development in relation to former umbrella categories of *sensitive natural features, locally indigenous vegetation, lookout points, dominant ridgelines* and *dominant sand dunes* features, which former Policy 3.8 specifically targeted, is unnecessary. Federated Farmers submitted on the proposed plan that these added unnecessary layers of complexity to the Plan, which would create unnecessary extra layers of consideration with which to burden landowners contemplating subdivision and development, for arguably little environmental benefit.
- Federated Farmers opposes relief seeking deletion of the words ‘where practicable’ from Policy 3.8 - *Management Approach to Biodiversity Protection*, for the reason that this would place an unreasonable onus on landowners and farmers to avoid modification of significant indigenous vegetation, without also anticipating possible remedy, mitigation or offsetting of adverse effects on such, in situations where avoidance may not be feasible. Plan provisions

for the identified *Outstanding Natural Features and Landscapes, Ecological Sites*, and areas of *Outstanding Natural Character, High Natural Character*, and *Coastal Dominance* provide sufficient guidance and assessment tools for determining the appropriateness or otherwise of modification of significant indigenous vegetation in conjunction with this policy.

- Federated Farmers opposes relief seeking reinstatement of the words ‘and linkages between’ from paragraph c) of 3.8 - *Management Approach to Biodiversity Protection*, for the reason that inference of such linkages (between ecological sites, key indigenous trees, rare and threatened vegetation species, and significant habitats of indigenous fauna, including aquatic ecosystems) is vague and undefined and creates significant uncertainties for aspects of farming activity. Given the preponderance of the Plan’s identified *Outstanding Natural Features and Landscapes, Ecological Sites*, and areas of *Outstanding Natural Character, High Natural Character*, and *Coastal Dominance* on farmland in Rural Zones, requiring attention to be given to such ‘linkages’ is likely to incur an unnecessary additional layer of complexity in assessment, for arguably little environmental benefit.
- Federated Farmers opposes relief seeking additional “guidance on protecting and maintaining biodiversity that does not meet the significance criteria” in Policy 3.8 - *Management Approach to Biodiversity Protection*, for the reason that there is no requirement in the Resource Management Act 1991 to protect and maintain all biodiversity, and therefore such additional guidance is unnecessary and will add layers of complexity and confusion to the plan framework, resulting in unnecessary assessment of activity for arguably little environmental benefit.
- Federated Farmers opposes relief seeking that *avoidance* should be hierarchically prioritized over *remedy* or *mitigation* in Policy 3.8 - *Management Approach to Biodiversity Protection*, for the reason that circumstances in any given case will determine which method is appropriate to counteract adverse effects of subdivision, development and use of land, and there is no overwhelming reason to prefer ‘avoidance’ in all cases.
- Federated Farmers opposes relief seeking deletion of exemptions in Rule 3A.1.4 - *Trimming or modification that is within the Rural Hills, Rural Plains, Rural Dunes, Open Space (Conservation and Scenic) and River Corridor Zones*, in so far as said relief seeks deletion of exemptions applying to farming activities on land in any of the Rural Zones, for the reasons that many farming activities typically involve trimming of all kinds of vegetation for a variety of purposes (including: maintenance of space around farm buildings, farm access-ways and tracks, stream crossings and bridges, fences, fire breaks, and pasture and cropland formation and maintenance), and not exempting farm activities from the (very limited) standards for permitted trimming of indigenous vegetation, would unduly burden farmers with requirements to obtain resource consent for such routine trimming activity, which would incur disproportionately high costs and long delays on the part of landowner/farmers for arguably little environmental benefit. Federated Farmers has appealed Rule 3A.1.4 seeking relief allowing further exemptions for farming and ancillary activities in this regard.
- Federated Farmers opposes relief seeking that earthworks in all areas should be a discretionary activity (contrary to Rule 3A.1.8 – *Earthworks in all areas associated with* (inter

alia) *maintenance of farm tracks...*, and Rule 3A.1.6 – *Earthworks in all areas (... except in certain specified areas)* for the reason that earthworks which are enabled for activities mentioned in Rule 3A.1.6 and Rule 3A.1.8 are necessary in order to enable a variety of routine farming activities, and that removing provision to undertake such earthworks would unduly burden landowners (including farmers) with requirements to obtain resource consent for routine earthworks, which would incur disproportionately high costs and long delays on the part of landowner/farmers for arguably little environmental benefit. Federated Farmers has appealed Rule 3A.1.6 seeking relief allowing further exemptions for farming and ancillary activities in this regard. For the same reasons, Federated Farmers also opposes relief seeking that earthworks in scheduled areas of significant biodiversity should be a discretionary activity (contrary to Rule 3A.2.1 – *Earthworks (excluding farm tracks etc.) within outstanding natural features and landscapes not permitted under Rule 3A.1.8 (a)-(d) or (f)*).

- Federated Farmers opposes relief seeking reinstatement of former proposed Rule 3A.3.3 – *Subdivision of land containing indigenous vegetation*, for the reason that landowners contemplating subdivision to facilitate reasonable use of their farms should not be unduly constrained in considering subdivision options by the mere presence of any type of indigenous vegetation which is not already within identified *Outstanding Natural Features and Landscapes, Ecological Sites*, and areas of *Outstanding Natural Character, High Natural Character*, and *Coastal Dominance* that afford appropriate protection to indigenous vegetation within such areas. To inhibit subdivision, development and use of land solely on the basis of presence of indigenous vegetation, would discourage landowners and farmers from planting any indigenous vegetation in the first place, thus undermining enhancement of amenity values and the quality of the environment.
  - Federated Farmers opposes relief seeking that matters of discretion in Rule 3A.3.8 and Rule 3A.3.9 be expanded to recognize effects on habitats of indigenous fauna as distinct from effects on significant indigenous vegetation, when considering consents triggered by failure to meet permitted activity conditions for trimming and modification of indigenous vegetation, for the reason that the purpose for Rule 3A.1.4 is *trimming and modification of indigenous vegetation*, and matters of restricted discretion in Rule 3A.3.8 should relate to this topic. Expanding the rule to require consideration of effects on habitats of indigenous fauna would introduce uncertainty into the scope of the rule and is likely to incur costly and lengthy burdensome environmental assessment on the part of farmers for arguably little environmental benefit.
  - Federated Farmers also opposes any other relief sought that is consequential to the relief that it has opposed above, or which is necessary to give effect to the relief sought that it has opposed above.
- 4 Federated Farmers of New Zealand agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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**Peter Matich**

Senior Policy Advisor - Regional  
Federated Farmers of New Zealand

**15 February 2018**

Address for service of person wishing to be a party:

Federated Farmers of New Zealand  
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Wellington 6140

Attention: Peter Matich

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Contact person: Peter Matich

***Advice***

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