

BEFORE THE ENVIRONMENT COURT

ENV-2020-CHC-000058

AT CHRISTCHURCH

I MUA I TE KOOTI TAIAO

IN THE MATTER

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

BETWEEN

**Federated Farmers of
New Zealand**

Appellant

AND

**Marlborough District
Council**

Respondent

**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS BY THE
MINISTER OF CONSERVATION**

Dated: 8 June 2020

Department of Conservation

Solicitor/Counsel acting: M Pemberton/D van Mierlo

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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
CHRISTCHURCH

1. The **Minister of Conservation** (the **Minister**) wishes to be a party to the following proceedings:
 - 1.1. Federated Farmers of New Zealand v Marlborough District Council
2. The Minister made submissions and appeared at the Council hearing on the proposed Marlborough Environment Plan (the Plan)
3. The Minister is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (RMA).
4. The Minister has an interest greater than the interest the general public has, specifically regarding conservation values and the implementation of the New Zealand Coastal Policy Statement.
5. The Minister is interested in all of the proceedings, but has a particular interest in parts of the appeal relating to:
 - 5.1. Rule 2.10 discretionary activity;
 - 5.2. Rules 2.11.4 and 2.11.5 Rules 3.7.3 and 3.7.4 and Rules 4.7.4 and 4.7.5, Prohibited activities;
 - 5.3. Rule 3.3.12, Indigenous vegetation clearance;
 - 5.4. Rule 3.3.22, 4.3.20.1, Livestock entering onto, or passing across, the bed of a river;

- 5.5. Policy 5.2.3, Protect the significant values of specifically identified freshwater bodies;
- 5.6. Policy 5.3.1, To allocate water in the following order of priority;
- 5.7. Objective 8.1;
- 5.8. Policy 8.2.6;
- 5.9. Policy 15.1.28, and
- 5.10. Policy 15.1.35.

6. The Minister **opposes and supports** the relief sought.

Relief Supported

7. The Minister supports the relief in relation to the following:

- 7.1. Objective 8.1: amending this Objective as proposed has merit in making the distinction between indigenous biodiversity that is significant in terms of section 6(c) of the RMA, and indigenous biodiversity values that are otherwise to be maintained generally.

Relief opposed

8. The Minister opposes the relief sought in relation to the following:

- 8.1. Rule 2.10: the relief sought is opposed as there is no permitted activity with regard to livestock access to lakes and hence justification for a restricted discretionary activity has no basis.
- 8.2. Rules 2.11.4 and 2.11.5 Rules 3.7.3 and 3.7.4 and Rules 4.7.4 and 4.7.5, and Policy 5.2.3: the prohibited activity status for entry or passing of intensively farmed stock on lakes and riverbeds is supported for the protection it provides for lakes and rivers in the Marlborough District. A non-complying activity status is not considered appropriate. The associated direction provided by Policy 5.2.3 is supported in providing support to the prohibited activity status.
- 8.3. Rule 3.3.12: The proposed exemption from indigenous vegetation clearance permitted activity standards for the 'formation' of roads, tracks, pipelines etc as opposed to clearance for the maintenance of

existing infrastructure is not supported as it could allow for indigenous vegetation and habitats to be cleared without either meeting the standards for a permitted activity or going through an assessment of effects provided by a resource consent application. The other additional exemptions sought are not supported as they are not well defined and there is little certainty the effects of the activities would be minor.

8.4. Rule 3.3.22.1 and Rule 4.3.20.1: the standards as decided in the decisions version of the Plan are supported as is the related prohibited activity rule excluding the access of intensively farmed stock from the beds of lakes and rivers. The proposed exemptions to this standard are not supported as they undermine the intent of the prohibited activity rule.

8.5. Policy 5.3.1: the explanation to this policy provides the context in which this policy is implemented, being the implementation of restrictions on water takes in order of priority. The additional clarification is not considered necessary.

8.6. Policy 8.2.6: deletion of this policy is not supported and is not justified in the appeal. The policy provides for consideration to be given to protecting areas of significant biodiversity values located in riparian margins that may be considered as part of a development or subdivision.

8.7. Policy 15.1.28: proposed deletion of this policy is not supported. The potential benefits of setting aside esplanade reserves for access, and maintenance and enhancement of biodiversity values and water quality outweigh any perceived negative impact.

8.8. Policy 15.1.35: the proposed deletion of this policy is not supported. This policy compliments related policies regarding stock access to lakes and river beds and is a necessary part of the policy direction for the stock access rules for the various zones.

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



Matt Pemberton/Dean van Mierlo
Solicitor/Counsel for the Minister of Conservation

8 June 2020

Address for service of person wishing to be a party:

Minister of Conservation

Planning Shared Services
Department of Conservation
Private Bag 4715, Christchurch Mail Centre, Christchurch 8140

Contact persons

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Advice

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