

IN THE ENVIRONMENT COURT  
AT AUCKLAND

ENV-2020-AKL-000088

I MUA I TE KOOTI TAIAO O AOTEAROA  
TĀMAKI MAKĀURAU

IN THE MATTER of the Resource Management Act 1991

A N D

IN THE MATTER of an appeal pursuant to clause 14(1) of the First  
Schedule of the Act

BETWEEN IWI OF HAURAKI

*Appellant*

A N D WAIKATO REGIONAL COUNCIL

*Respondent*

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

Section 274 Resource Management Act 1991

29 September 2020

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**FEDERATED  
FARMERS**  
OF NEW ZEALAND

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To: The Registrar  
Environment Court  
Auckland

Federated Farmers of New Zealand Inc ("**Federated Farmers**") wishes to be a party to the following proceedings:

**Iwi of Hauraki v Waikato Regional Council**  
**ENV-2020-AKL-000088**

Federated Farmers made a submission about the subject matter of the proceedings.

Federated Farmers is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

Federated Farmers is interested in all of the proceedings.

1. Federated Farmers represents farmers in the Waikato and Waipā Rivers Catchment.
2. Federated Farmers has appealed the decision to on Proposed Waikato Regional Council Plan Change 1 – Waikato and Waipā River Catchments ("**PC1**"), as amended by the Hearing Panel, in its entirety, i.e. the decision as it relates to the introduction and all of the objectives, policies, methods, rules, definitions and schedules.
3. Federated Farmers supports sustainable management of resources and the use of regulatory and non-regulatory measures to maintain or enhance water quality, and to restore and protect the health and wellbeing of the Waikato and Waipā Rivers. However, Federated Farmers considers that the regulatory and non-regulatory methods proposed in PC1 do not appropriately give effect to the relevant higher order documents, have not appropriately balanced environmental, economic, social and cultural considerations, and are not the most efficient and effective means of achieving the objective of the plan change.
4. Federated Farmers is interested in all the issues raised by the Appellant.
5. Federated Farmers supports in part and opposes in part the relief sought by the Appellant.

6. Without limiting the generality of the above, an explanation of the issues that Federated Farmers has particular interest in is set out in **Appendix A**.
  
7. Federated Farmers agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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N J Edwards / L F Jeffries

Counsel for Federated Farmers

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## APPENDIX A

Provision Appealed	Reasons for Appeal	Relief Sought by Appellant	Support/Oppose	Reason
<b>Objectives</b>				
<b>Objectives</b>		Link the objectives to the relevant policies and state that they are non-hierarchical.		Federated Farmers is interested in the appeal point so as to ensure that any outcomes are consistent with the outcomes sought in Federated Farmers' appeal.
<b>Objective 4</b>	<p>The Appellant says the use values associated with Tangata whenua Ancestral land need to be recognised in order to be compliant with the requirements of the Resource Management Act 1991, in particular sections 5, 6€, 7(a) &amp; 8.</p> <p>Tangata whenua Ancestral land is now being returned through the Treaty settlement process. This context, and the historical context whereby Iwi were excluded from the economic activities and benefits that have contributed to the degradation of the rivers, wetlands and springs must also be recognised in the objectives that inform the proposal.</p>	<p><b>Amend Objective 4 as follows:</b></p> <p>a. Tangata whenua have the ability to:</p> <p><u>i. use and develop land acquired as cultural and commercial redress to support their social, cultural and economic development; and</u></p> <p>ii. manage their own lands and resources <u>including tangata whenua ancestral lands</u>, by exercising <u>mana or</u> mana whakahaere, for the benefit of their people; and</p>	Oppose	<p>Federated Farmers is concerned that any flexibility for the use and management of tangata whenua ancestral land and land returned via Treaty settlements should not be used to provide an allocation to that land, or require existing landowners to make greater reductions in contaminants (now or in the future) in order to provide for development or additional flexibility on tangata whenua ancestral lands or Treaty settlement land.</p> <p>Federated Farmers opposes the relief sought by the Appellant and considers the relief sought in Federated Farmers' appeal to be more appropriate. In particular Federated Farmers considers Objective 4 should be amended to clarify that any flexibility for, or removal of impediments relating to, the development, use and management of tangata whenua ancestral land and land returned via Treaty settlements is subject to sustainable management, a consistent and effects based assessment, and is not to impose additional social and economic cost on existing landowners (both now and in the future).</p>
<b>Policies</b>				
<b>Policies</b>		<b>Amend</b> the policies to address the matters raised in this appeal, including not limiting consent	Oppose	Federated Farmers does not agree that the policies should be amended to address the matters raised in this

		<p>durations on tangata whenua ancestral lands, and as below.</p>		<p>appeal for the reasons outlined by Federated Farmers below.</p>
<p><b>Policy 10</b></p>		<p><b>Amend Policy 10 as follows:</b> Reinstate paragraphs a-d from Policy 7 as originally notified and with amendments to paragraph b consistent with the matters raised in this appeal.</p>	<p>Oppose</p>	<p>Federated Farmers does not support specifying future allocation and concurs with the Hearing Panel that attempting to predict future plan changes is a fraught business. Any certainty that it provides is misleading.</p> <p>The Hearing Panel said that Policy 7 (as notified) should not purport to foreshadow what future Plan changes might say. The Hearing Panel said to do so particularly at the level of specificity in the notified version of Policy 7, is likely to create expectations that may well not be borne out in practice. The Panel said while it understood the desire of participants for certainty, indicating the path forward with no assurance that that will in fact be the case is potentially misleading.</p> <p>While Federated Farmers considers that further information needs to be collected and that the catchment needs to be better understood, Federated Farmers does not support preparing for future allocation through this plan. Federated Farmers considers that needs to be part of consideration during a community process and in the context of better information and science. It is not appropriate for this plan change to bind future plan changes in that way.</p>
<p><b>Policy 18</b></p>	<p>The Appellant says PC1 should include use as well as development as an aspect of policy 18.</p>	<p><b>Amend Policy 18 as follow:</b> For the purposes of considering land use change applications enabling the <u>use and</u> development of tangata whenua ancestral lands, recognise and provide for:</p>	<p>Oppose</p>	<p>Federated Farmers supports an effects based regime, where the effects of activities are considered and managed in a clear and consistent manner. Federated Farmers does not consider that it is appropriate to manage resources on the basis of ownership.</p> <p>Federated Farmers considers that the use of tangata whenua land ought to be</p>

				considered at a national level and not through regional plans. Federated Farmers does not support the use of regional plans or the RMA process to settle Treaty grievances or to address historical impediments to development of land (particularly where providing for this will require existing landowners to make greater reductions in contaminants (over and above that required to meet environmental outcomes) now or in the future).
<b>Rules</b>				
<p><b>New Rule 3.11.4.10 – Restricted Discretionary Activity Rule – Land Use Change for Tangata Whenua Ancestral Land</b></p> <p><u>Any change in the use of tangata whenua ancestral land from that which was occurring at 22 October 2016 to an activity that does not comply with the conditions, standard or terms of Rules 3.11.4.1 to 3.11.4.9 and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a restricted discretionary activity (requiring resource consent).</u></p> <p><u>Waikato Regional Council restricts its discretion over the following matters:</u></p>	<p>This restricted discretionary rule provides an appropriate discretion to Council in considering applications for change in use of Tangata Whenua Ancestral Land. This discretion (as compared to the non-complying activity applying to other types of land) is entirely appropriate when seen in the proper historical context that is addressed above. Because of this context, the discretion provided by this rule will give rise to greater benefits due to historical grievances that are sought to be remedied through the return of lands in Treaty settlements. As such there is an effects basis for the differential treatment of these different types of land.</p> <p>The proposed restricted discretionary rule is not inconsistent with giving effect to the Vision and Strategy. No discharge is allocated by the rule. Council may decline any application that would give rise to undue effects on the rivers. The matters of discretion</p>	<p><b>Insertion of new Restricted Discretionary Activity Rule</b></p>	<p>Oppose</p>	<p>As discussed in relation to Policy 18, Federated Farmers considers that the development of tangata whenua land ought to be considered at a national level and not through regional plans. Federated Farmers does not support the use of regional plans or the RMA process to settle Treaty grievances or to address historical impediments to development of land (particularly where providing for this will require existing landowners to make greater reductions in contaminants (over and above that required to meet environmental outcomes) now or in the future).</p> <p>Federated Farmers considers Tangata Whenua Ancestral Land land use change ought to be subject to the same effects based assessment that applies to other land use change and therefore opposes the relief sought by the appellants.</p>

<p><a href="#">i. Relationship of tāngata whenua with their ancestral lands.</a></p> <p><a href="#">ii. The exercise of kaitiakitanga.</a></p> <p><a href="#">iii. The creation of positive economic, social and cultural benefits for tāngata whenua now and into the future.</a></p> <p><a href="#">iv. The use of best management practice actions for nitrogen, phosphorus, sediment and microbial pathogens for the new type of land use.</a></p>	<p>provide robust criteria against which to consider applications for change in use.</p> <p>There is no legal or technical impediment to the proposed restricted discretionary rule.</p>			
<p><b>Rule 3.11.4.9 – Non-Complying Activity Rule – Land use change</b></p> <p>.</p>	<p>The Appellant considers the need for consequential changes are necessary as a result of insertion of the restricted discretionary rule.</p>	<p><b>Amend Rule 3.11.4.9 as follows:</b>  <del>Except as provided for in Rule 3.11.4.7 Notwithstanding any other rule in this Plan</del>, the following changes in the use of land are non-complying activities:</p> <p>...</p>	<p>Oppose</p>	<p>As outlined in relation to Policy 18 and above for the proposed restricted discretionary rule, Tangata Whenua Ancestral Land land use change ought to be subject to the same effects based assessment that applies to other land use change and therefore opposes the relief sought by the appellant.</p>
<p><b>Glossary</b></p>				
<p><b>Tangata Whenua ancestral lands</b></p>	<p>The Appellant considers the proposed amendments improve the accuracy and clarity of the definition.</p>	<p><b>Amend the definition as follows:</b>  Tangata Whenua ancestral lands means land that has been returned through settlement processes between the Crown and tangata whenua, or is, as at the date of notification (22 October 2016), Māori freehold land <del>and general land</del> under the jurisdiction of Te Ture Whenua Māori Act 1993.</p>	<p>Oppose</p>	<p>Federated Farmers considers “general land” owned by Māori to be different to Tangata Whenua Ancestral Land.</p>
<p><b>Other matters</b></p>				
<p><b>2.1.1 General</b></p>	<p>The Appellant considers the proposed amendments reflect a proper inclusion of recognition of Pare Hauraki interests.</p>	<p>Inclusion of paragraph relating to Hauraki iwi interests in the catchment and redress legislation to the consequential amendments Chapter 2 of the operative Regional Plan:</p>	<p>Oppose</p>	<p>Federated Farmers considers the relief sought to be outside the scope of this plan change.</p>

		<u>Hauraki iwi are recognised as having an interest in an area extending over the Waikato River catchment. The Pare Hauraki collective redress legislation provides for Hauraki iwi to be involved in the governance and management of the catchment within their rohe.</u>		
<b>3.1 Water Resources</b>	The Appellant considers these consequential changes reflect a proper inclusion of recognition of Pare Hauraki interests.	Inclusion in second box of paragraph relating to Hauraki iwi interest in the catchment and redress legislation to the consequential amendments.	Oppose	Federated Farmers considers the relief sought to be outside the scope of this plan change.
<b>3.1 Background and Explanation</b>		Chapter 2 of the operative Regional Plan. Add new sentences as third para in section "Tangata Whenua":  <u>Hauraki iwi are recognised as having an interest in an area extending over the Waikato River catchment. The Pare Hauraki collective redress legislation provides for Hauraki iwi to be involved in the governance and management of the catchment within their rohe.</u>	Oppose	Federated Farmers considers the relief sought to be outside the scope of this plan change.