

**BEFORE THE ENVIRONMENT COURT**

**ENV-2019-WLN-000126**

**AT WELLINGTON**

**I MUA I TE KOOTI TAIAO**

**O AOTEAROA**

**IN THE MATTER**

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

**BETWEEN**

**Federated Farmers of  
New Zealand  
Incorporated**

*Appellant*

**AND**

**Wellington Regional  
Council**

*Respondent*

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

**Dated: 9 October 2019**

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Department of Conservation  
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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  
WELLINGTON

1. The **Minister of Conservation** (the **Minister**) wishes to be a party to the following proceedings:
  - 1.1. Federated Farmers of New Zealand Incorporated v Wellington Regional Council, ENV-2019-WLN-000126
2. The Minister made submissions and appeared at the Council hearing on the proposed Natural Resources Plan for the Wellington Region (proposed 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 is interested in part of the proceedings.
5. The Minister is interested in the following particular issues:
  - 5.1. Definition: "Category 2 surface waterbody";
  - 5.2. Definition: "significant natural wetland"
  - 5.3. Definition: "surface waterbody"
  - 5.4. Rule R36B – Motorised and aerial discharge of agrichemicals – permitted activity (previously R37 – Agrichemicals into water);
  - 5.5. Rules R67 – Discharges inside sites of significance – non-complying activity and R68 – All other discharges – discretionary activity;
  - 5.6. Rule R97 – livestock access to a surface water body or the coastal marine area;
  - 5.7. Rule R99 – Earthworks;

- 5.8. Rule R100 – Vegetation clearance on erosion prone land;
- 5.9. Rule R101 – Earthworks and vegetation clearance – discretionary activity;
- 5.10. Rule R108– activities in significant natural wetlands – non-complying activity;
- 5.11. Rule R110– activities in outstanding natural wetlands – non-complying activity.

6. The Minister opposes the relief sought because:

- 6.1. Definition: “Category 2 surface waterbody” – water races and drains can have significant habitat values. The water races and drains within the mapped lowland areas shown on Map 29 are interconnected with other water bodies and do have values as freshwater fish habitat. Omitting them from the definition will result in adverse effects on that habitat and will not provide for matters of national importance under section 6 of the RMA;
- 6.2. Definition: “significant natural wetland” – the relief sought would re-instate the minimum size provision of “greater than 0.1ha”. Wetlands which meet the criteria for significance must be identified as such irrespective of their size. Making this amendment would be contrary to the National Policy Statement Freshwater Management 2014 (NPSFM) and the RMA.
- 6.3. Definition: “surface waterbody” – removing drains and water races from the definition would remove the protection for discharge rules to the plan. This is inappropriate given the potential effects on the immediate and downstream receiving water bodies.
- 6.4. Rule R36B – Motorised and aerial discharge of agrichemicals – permitted activity (previously R37 – Agrichemicals into water): the discharge of agrichemicals into air, or onto or into land where it may enter water under Rule R36B is appropriately managed by the general conditions in section 5.1.13. The reinstatement of previous Rule R37 is therefore opposed.
- 6.5. Rules R67 – Discharges inside sites of significance – non complying activity and R68 – All other discharges – discretionary activity: non-complying activity status, or discretionary activity status where

a site is not identified in Schedules A, C, F1, F3, F4, or H1, is an appropriate method to manage the adverse effects of fertiliser use. The relief sought (controlled activity status) for fertiliser use is opposed as there will be instances where consents must be declined. Fertiliser use that does not meet the permitted activity conditions in R82 can have significant adverse effects on receiving environments and a wide range of matters may need to be considered. The relief sought is contrary to the NPSFM and the RMA.

- 6.6. Rule R97 – livestock access to a surface water body or the coastal marine area: The relief sought to the rule structure for stock access would result in a framework that is too permissive and thus cause further degradation to water quality. As such it does not give effect to higher order policy direction including the NPSFM, does not provide for matters of national importance listed in section 6 of the RMA, and does not promote the sustainable management of natural and physical resources.
- 6.7. Rule R99 – Earthworks: the relief sought would reduce the effectiveness of this rule in controlling adverse effects on water quality of earthworks, in particular by decreasing the relevant property size, removing the setback requirement from a surface water body, and excluding drains from the scope of the rule.
- 6.8. Rule R100 – Vegetation clearance on erosion prone land: the relief sought would reduce the effectiveness of this rule in controlling adverse effects on water quality of indigenous vegetation clearance, in particular by decreasing the relevant property size and removing the setback requirement from a surface water body.
- 6.9. Rule R101 – Earthworks and vegetation clearance – discretionary activity: Earthworks and vegetation clearance that do not meet the permitted activity parameters can have significant adverse effects on receiving environments and a wide range of matters may need to be considered. It will also be necessary to have the ability to decline consents in some cases. As such, discretionary activity status at least is required to meet the purpose of the RMA and the requirements of the NPSFM.
- 6.10. Rule R108 – activities in significant natural wetlands – non-complying activity: take and use of water nearby a significant

natural wetland can cause adverse effects to the hydrology and habitat in the wetland.

6.11. Rule R110– activities in outstanding natural wetlands – non-complying activity: take and use of water nearby an outstanding natural wetland can cause adverse effects to the hydrology and habitat in the wetland.

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



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Katherine Anton  
Solicitor for the Minister of Conservation

9 October 2019

Address for service of person wishing to be a party:

**Minister of Conservation**  
Department of Conservation  
18 Manners Street, Wellington 6011

*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.