

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

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND of appeals under Clause 14 of Schedule 1
of the Act in relation to the Proposed
Regional Plan for Northland

BETWEEN FEDERATED FARMERS OF NEW
ZEALAND
(ENV-2019-AKL-000114)

ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED
(ENV-2019-AKL-000127)

Appellants

AND NORTHLAND REGIONAL COUNCIL

Respondent

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The Proposed Regional Plan for Northland is amended as set out in **Annexure A** to this Order.
 - (2) This order resolves the appeals as they relate to Policy D.4.28.



(3) The Council is continuing to engage with the appellants, and associated s274 parties, on Rules C.8.1.2, C.8.1.3, and C.8.1.4 in the interests of resolving the appeal points.

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

REASONS

Introduction

- [1] These appeals are against the Northland Regional Council's decision on the Proposed Regional Plan for Northland. This consent order resolves these appeals as they relate to Policy D.4.28. This appeal point has been assigned to Topic 9.
- [2] Policy D.4.28 provides direction to decision-makers on applications for resource consents to allow the access of livestock to the bed of a lake or a continually flowing river, a continually flowing artificial watercourse, a natural wetland, or the coastal marine area.
- [3] The Royal Forest and Bird Protection Society of New Zealand sought the deletion of clauses 1 and 4 of the policy. Federated Farmers of New Zealand sought an amendment in order to recognise stocking density as substitute mitigation to excluding livestock from waterways.
- [4] Following Court-assisted mediation, the parties reached an agreement that will resolve this appeal points and will result in the following changes to Policy D.4.28:

When considering an application for a resource consent to allow livestock access to the bed of a lake or a continually flowing river, a continually flowing artificial watercourse, a natural wetland, or the coastal marine area, have regard to:

- 1) any relevant priorities and recommendations in a farm environment plan prepared by the Regional Council or in an industry approved farm environment plan, and
- 2) the need to extend the deadline for livestock to be effectively excluded on the grounds of significant practical and economic constraints, and
- 3) the implementation of substitute measures, such as constructed wetlands, to avoid or mitigate losses of sediment and faecal microbes to downstream water bodies and coastal waters, and
- 4) the ~~effects~~ benefits of grazing the banks of water bodies, including suppression of weeds and maintenance of grass cover to minimise contaminant inputs to water bodies.



- [5] The parties consider that these changes are minor in nature and improve the clarity of the Policy. In addition, the reference to economic constraints in clause 2 enables consideration of cost implications, in addition to practical constraints.
- [6] In making this order the Court has read and considered the memorandum of the parties dated 13 March 2020 filed in support of this consent order.
- [7] The following people gave notice of their intention to become parties under s 274 of the Act and have signed the memorandum of the parties seeking this order:
- (a) Federated Farmers of New Zealand;
 - (b) Minister of Conservation;
 - (c) Northland Fish and Game Council;
 - (d) Patuharakeke Te Iwi Trust Board; and
 - (e) The Royal Forest and Bird Protection Society of New Zealand.
- [8] The Court is making this order under s 279(1)(b) 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 that are interested in the appeal points resolved by this order have executed the memorandum requesting this order;
 - (b) All parties are satisfied that all matters proposed for the Court's endorsement are within the scope of submissions and appeals, fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act 1991, including in particular Part 2.



Order

[9] Therefore, the Court orders, by consent, that the Proposed Regional Plan for Northland is amended as set out in **Annexure A** to this Order.

[10] This order resolves the appeals as they relate to Policy D.4.28. The Council is continuing to engage with the appellants, and associated s274 parties, on Rules C.8.1.2, C.8.1.3, and C.8.1.4 in the interests of resolving the appeal points.

[11] There is no order as to costs.

DATED at Auckland this 20th day of May 2020





J A Smith
Environment Judge

Annexure A

D.4.28 Exceptions to livestock exclusion requirements¹

When considering an application for a resource consent to allow livestock access to the bed of a lake or a continually flowing river, a continually flowing artificial watercourse, a natural wetland, or the coastal marine area, have regard to:

- 1) any relevant priorities and recommendations in a farm environment plan prepared by the Regional Council or in an industry approved farm environment plan, and
- 2) the need to extend the deadline for livestock to be effectively excluded on the grounds of significant practical and economic constraints, and
- 3) the implementation of substitute measures, such as constructed wetlands, to avoid or mitigate losses of sediment and faecal microbes to downstream water bodies and coastal waters, and
- 4) the effects ~~benefits~~ of grazing the banks of water bodies, including suppression of weeds and maintenance of grass cover to minimise contaminant inputs to water bodies.



¹ Appeal to Environment Court by

- i) Royal Forest & Bird Protection Society NZ ENV-2019-AKL-000127
- ii) Federated Farmers of New Zealand ENV-2019-AKL-000114